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VOLUME II

# TRANSCRIPT OF RECORD

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Supreme Court of the United States

OCTOBER TERM, 1962

No. 40

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GILBERTVILLE TRUCKING CO., INC., ET AL.,  
APPELLANTS,

vs.

UNITED STATES, ET AL.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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FILED NOVEMBER 10, 1961  
PROBABLE JURISDICTION NOTED FEBRUARY 19, 1962

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CHARLES G. CHILBERG was sworn and testified as follows:

Direct examination.

By Miss Kelley:

Q. May we have your name, address, and occupation?

A. Charles G. Chilberg, 33 Reed Street, Rockville, Con-  
[fol. 480] necticut, President and Treasurer of L. Nelson  
& Sons Transportation Company.

Q. And how long have you been connected with the  
L. Nelson & Sons Transportation Company?

A. I have been connected with that company from the  
time it began in the early part of 1930.

Q. And prior to your incorporation of the business, had  
you been connected with transportation?

A. Yes, ma'am, I was.

Q. And with what company?

A. With the same company, L. Nelson & Sons.

Q. Prior to the incorporation, what type of organization  
was it?

A. It was at that time a partnership.

Q. Were you one of the partners?

A. Yes, ma'am.

Q. Who were the other partners?

A. The other partners were my mother, Mrs. Linnea Nel-  
son, and my brother, Herbert Chilberg.

Q. Now, did you hear Mr. Solomon's testimony of the  
past three days?

A. I did.

Q. And did he correctly identify the officers and directors  
and stockholders of the L. Nelson & Sons Transportation  
Company?

A. Yes, he did.

[fol. 481] Q. Are the operating rights which the L. Nelson  
holds from the Interstate Commerce Commission correctly  
reflected in Exhibit A attached to the application?

A. Yes, I believe they are.

Q. Just for the record, will you describe generally the  
area and the commodities which the L. Nelson & Sons is  
authorized to transport?

A. They have authority to transport textiles and related



items from portions of Massachusetts, Rhode Island, and Connecticut—between those points rather—and New York City and portions of New Jersey and Philadelphia, Pennsylvania, and an area around Philadelphia.

Q. Is the company authorized to serve certain points in New Hampshire?

A. Yes, there is a small portion in New Hampshire they are authorized to cover.

Q. In addition to the authority which the L. Nelson & Sons Company holds from the Interstate Commerce Commission, does it hold authority from certain intrastate boards?

A. Nelson?

Q. Yes.

A. Yes, ma'am, they do. They have authority, intrastate authority in Connecticut and Massachusetts.

Q. Does the company actively operate under its interstate and intrastate authorities?

[fol. 482] A. It does.

Q. Did you hear the testimony of Mr. Solomon with respect to the R. A. Byrnes, Incorporated?

A. Yes, ma'am, I did.

Q. And that transaction was approved by the Commission Docket MCF 5749?

A. That's correct.

Q. Is R. A. Byrnes the holder of a certificate issued by the Commission in Docket No. MC 60186?

A. If is.

Q. And is it also the holder of permit No. MC 93421?

A. That's correct, it is.

Miss Kelley: Mr. Examiner, I believe copies of that certificate and permit are contained in the docket.

Exam. Baumgartner: They're attached to the application.

Miss Kelley: I see; thank you.

Exam. Baumgartner: I have them before me here in the application.

By Miss Kelley:

Q. Will you describe for the record generally the operating authority of the R. A. Byrnes, Incorporated?

A. They have general commodity authority to operate between points in New Jersey and metropolitan New York and Philadelphia, Pa., and, I believe, in some cases into Baltimore, that is into Baltimore and also on the permit [fol. 483] authority to transport canned goods and related items between Philadelphia and Swedesboro, New Jersey, and points in Connecticut and Massachusetts.

Q. Is the canned goods more extensive than just Connecticut and Massachusetts.

A. Yes, it is, to all points in New Jersey. Those are the New England points that I mentioned. It is to all points in New Jersey and metropolitan New York as well as Philadelphia.

Q. And you and your brother, Clifford Nelson, control Byrnes, is that correct?

A. That's right, we do.

Q. Now, does Byrnes have separate equipment from that of Nelson, and is it conducted as a separate, completely separate corporation?

A. Yes, it is.

Q. And where does Nelson maintain terminals?

A. Nelson maintains terminals in Ellington, Connecticut, Newton, Massachusetts, Woonsocket, Rhode Island, Long Island City, New York, and Philadelphia.

Q. Does Nelson have call stations or terminal arrangements at points other than at the terminals that you have named?

A. No. As far as call stations are concerned, it might be possibly construed as such, but we have telephone connections from such points as Lowell and Lawrence, Massachusetts on an enterprise system into Newton and also a [fol. 484] private or a direct wire from Worcester and area into Woonsocket. Other than that, we do not have any other terminals.

Mr. Barrett: May we go off the record?

Exam. Baumgartner: Off the record.

(Discussion off the record.)

Exam. Baumgartner: Back on the record, Miss Reporter.

By Miss Kelley:

Q. Mr. Chilberg, have you caused to be prepared an exhibit showing the number of trucks, tractors, and trailers owned and operated by the L. Nelson & Sons Transportation Company?

A. I have.

Exam. Baumgartner: As of?

By Miss Kelley:

Q. And that's as of July 31, 1956?

A. That's correct.

Q. And is this copy a copy of that exhibit?

A. Yes, it is.

Miss Kelley: Mr. Examiner, I'd like to offer for identification a list of equipment operated by Nelson as of July 31, 1956.

Exam. Baumgartner: The document just referred to will be Exhibit No. 24 for identification.

(The document above referred to as Applicant's Exhibit No. 24, Witness Chilberg, was marked for identification.)

By Miss Kelley:

Q. Mr. Chilberg, does the L. Nelson & Sons Company normally lease equipment to augment its own equipment [fol. 485] and to add to your own?

A. Rarely it does; occasionally it will.

Q. And could you tell us the number of times, the approximate number of times during the past year that the equipment has been leased by your company?

A. Frankly, I wouldn't be able to say. It is that insignificant. If I said perhaps two or three times or less, that would be the maximum.

Q. Now, how many persons are employed by the L. Nelson & Sons Company?

A. Shall I give it in total or as a breakdown?

Q. Will you give the total, then break it down as to the different categories therein.

A. 110.

Exam. Baumgartner: That's the grand total?  
 The Witness: Yes, sir.

By Miss Kelley:

Q. Now, how many of that 110 are in the category of office help or clerical, terminal managers, drivers, mechanics, so forth?

A. In other words, a complete breakdown?

Q. Break it down as completely as you can.

A. Office employees, 10; terminal managers, 5; dispatchers, 5; mechanics, 6; utility men, 3; salesmen, 2; 79 drivers.

Q. Now, will you describe generally each of the terminals, the space occupied by Nelson in each of the terminals [fol. 486] and the facilities provided in each terminal, that is, whether or not you have maintenance facilities at each terminal.

A. The facilities are in a general way a normal trucking terminal in that it has or they have platform space and necessary office space to conduct a normal business.

Q. And where do you have repair or maintenance facilities?

A. We have repair facilities at our Ellington terminal and in the other locations it is primarily hired out to independent garages.

Q. It is hired out to who?

A. Independent garages, performed by independent garages.

Q. Where are the 5 mechanics that you mentioned?

A. They are in Rockville or Ellington.

Q. Just so it will be clear on the record, will you explain this reference to Ellington and Rockville? Is that one and the same place?

A. It is one and the same place, and I would appreciate it if it would be construed as such in that we are used to calling it Rockville. It's on the Rockville-Ellington line. Legally speaking, it is in Ellington, it's in the Ellington town, but when I refer inadvertently to Rockville, I mean Ellington.

[fol. 488] By Miss Kelley:

Q. If the transaction here being considered by the Commission is approved and the properties of Gilbertville and Nelson are merged, do you contemplate a change in terminals, in terminal arrangements?

A. No, I don't think we do, not at the present time.

Q. You do know where Gilbertville maintains terminals at the present time?

A. Yes, I do.

Q. And will all terminals of both companies be maintained as far as you know at the present time if the transaction is approved?

A. Yes, that's correct.

Q. Mr. Chilberg, do you understand the terms of the agreement between the two companies for this merger, and, I believe, as fully described by Mr. Solomon in his testimony?

A. Yes, I do.

Q. Could you explain as to how you understand the agreement provides for the merger?

A. As I understand it, Kenneth Nelson will receive a number of shares, which at the present time is determined to be approximately 78, which is based on the value of Gilbertville Trucking Company when it becomes part of the merged operation.

Q. And with respect to the other assets and liabilities of the Gilbertville Trucking Company—strike that.

With respect to the assets and liabilities of the Gilbert-[fol. 489] ville Trucking Company, what's your understanding?

A. It is my understanding that they will be a part of the merged operation.

Q. Whether or not you understand that the L. Nelson & Sons will assume the liabilities of the Gilbertville Trucking Company?

A. Yes, that's correct.

Exam. Baumgartner: That is to say that Nelson will take over both the assets and the liabilities?

Miss Kelley: That's right completely.

By Miss Kelley:

Q. Mr. Chilberg, do you recall the testimony of Mr. Solomon with respect to economies that are anticipated as a result of the merged operations?

A. Yes, I do.

Q. I want to ask you one question. First, going back, do you recall if there was any economy claimed insofar as concerned terminal rents?

A. Terminal rents?

Q. Yes.

A. No, I don't think I do.

Q. You don't recall?

A. I don't recall.

Q. I see. Now, Mr. Solomon stated that the economies were based—strike that.

Mr. Solomon, as I recollect, stated that the anticipated [fol. 490] economies were based in part upon a discussion with you and Kenneth Nelson. Will you explain to us the basis on which you computed the economies?

A. In arriving at those figures, which I feel were really low or even to the point of being extremely low, those economies we studied the operation of both companies and spent considerable time in seeing or looking for places where we could effect economies if the two were combined and that actually is the basis of it in that it was a study or a combined study between the two of us. We found that insofar as many items and work is concerned, there were duplications all along the way which could be eliminated if the two companies could be merged.

Q. Could you tell us on what basis, for example, operating-wise you anticipate economies will result?

A. Well, there would be an elimination of duplicity of mileage for one thing, plus the fact that Gilbertville or Kenneth Nelson rather has purchased some land in Springfield in anticipation of building some terminal facility. If this operation or if these two operations were merged, a facility would be provided there which would relieve us of a great deal of unnecessary cost in that gateways which have to be observed would be accomplished by road drivers which would eliminate the need for so-called backhauling where it would be necessary. That in itself would provide a considerable amount of economy.

Q. Would that result in a savings in time in over-all operations?

[fol. 491] A. Yes, it would. It would permit us to render better service and at the same time reduce operating time and expense.

[fol. 492] Q. Now, if this transaction is approved will there be any—strike that. If the transaction is approved, [fol. 493] will the Gilbertville employees be retained in the merged operations?

A. Yes, they would be.

Q. Do you anticipate that any would be discharged?

A. No. There might be cases, perhaps of clerical work when vacancies occur; they may not be refilled. Other than that, we don't anticipate any.

Q. Will you explain the circumstances which caused you to enter into this agreement for the merger of Nelson and Gilbertville?

A. At some time, I believe it was in 1954, Mr. Solomon, who as you know is our accountant, and also the accountant for Gilbertville, approached me with the suggestion that he thought from what he could see in his work that it would be a feasible thing to merge the two companies. At the time I gave little or no consideration to it because Gilbertville Company was one primarily New England, and we having been in the textile field for so many years had quite late considered it more practical to expand in a more southerly direction from Connecticut. We had negotiated a purchase for a company in New Jersey which at that time, incidentally, around that time which was denied, and it was pretty close to that final finding of the ICC that we entered into negotiations with R. A. Byrnes which is also located in New Jersey.

In other words, I couldn't at that time see the practicality of it because, as I said, the textiles have had for some [fol. 494] period of time a tendency to go more southerly and we wanted to, in a sense, follow the trade as it were. That's the reason I didn't attach any significance to his remark at that time.

Exam. Baumgartner: May I ask, what do you mean by "a tendency of textiles to go more southerly"?



The Witness: Well, there's been a great evacuation.

Exam. Baumgartner: Movement of textile manufacturers towards the south?

The Witness: That's exactly right, that's correct, the closing up of plants and so on in New England going south.

He spoke to me again about it in, I would say, I believe it was in the early part of '55.

Mr. Barrett: By "he" you mean Mr. Solomon?

The Witness: Sir?

Mr. Barrett: You mean Mr. Solomon when you say "he"?

The Witness: Yes. Mr. Solomon spoke to me about it again in the early part of 1955 and even at that time I was not awfully interested, although I did consider it more. I considered it more fully, and after discussing the feasibility of it with him and Kenneth Nelson, we discussed the practicality of it with our attorney, Miss Kelley, and from there it has come to this point.

By Miss Kelley:

Q. In the past have you had any financial interest in the Gilbertville Trucking Company?

A. None whatsoever.

[fol. 495] Q. Have you had an interest in it so far as the fact that it was operated by your brother?

A. From a brotherly standpoint, surely I have been interested in what he's been doing, but a normal casual interest, that's all, just as much as I'd be interested in his family.

Q. Now, does Nelson interchange traffic with Gilbertville Company?

A. Yes, they do.

Q. And how is the interchange effected?

A. The interchange of that is effected either by physical interchange of freight or interchange of trailers.

Q. Does Nelson interchange freight with other carriers as well as Gilbertville Trucking Company?

A. Yes.

Q. How many?

A. With a great many others.

Q. Can you give us an approximate number?

A. Oh, probably at least 15 or 20 other carriers.

Q. Do you interchange freight with carriers that operate in the same area that Gilbertville operates in?

A. Yes; we do.

Q. And could you tell us how many such carriers?

A. Oh, perhaps 6.

Q. Would such carriers be primarily in the northern part of your operation or some of it?

[fol. 496] A. That would be primarily northern. By northern I mean Massachusetts, Rhode Island and points like that, northern New England.

Q. Now are the arrangements for interchange between the L. Nelson & Sons and Gilbertville Trucking Company any different than your interchange arrangements with these other carriers?

A. No, ma'am, there's no difference.

Q. And could you tell us what proportion of the total traffic of the L. Nelson & Sons is represented by the interchange with Gilbertville, that is, either the percentage-wise or dollar-wise or any way you can give it to us.

A. Any particular direction?

Q. No, I want the total interchange and if you can break it down as to traffic originating on your line as against traffic originating on the Gilbertville line it would be all right, or just give us the total figure, whichever is easier.

A. I think I can do it north and southbound better in that northbound I would estimate not more than 2 or 3 per cent; southbound it might be a little heavier, 5 per cent.

Q. Now when you say 2 or 3 per cent or 5 per cent, in other words, a combination of the figures would be a total of 8 per cent?

A. That's correct.

Q. And 8 per cent of what?

A. Of our gross, of our monthly or annual gross.

[fol. 497] Q. Tonnage?

A. Dollars.

Q. When you computed dollar-wise, is that based on Nelson's proportion of the revenue from such a haul?

A. That's correct.

Q. And have you taken into consideration the deduction from the total revenue, the proportion that would be paid to Gilbertville is not in the 8 per cent figure?

A. No, that's right, it is not.

Q. I just wanted to make sure. Now at what points is freight interchanged with Gilbertville?

A. Freight is interchanged with Gilbertville at Monson, at their terminal in Gilbertville, and in some cases at Ellington.

Q. What's the arrangement when interchange is effected at Monson? How is it effected?

A. That freight is effected or interchanged by means of our truck meeting a Gilbertville truck at that point and actually backing a trailer or truck to truck as the case may be to interchange freight, and also it is accomplished by the fact that Gilbertville does have a trailer parked permanently in Monson and whenever necessary Nelson would drop off freight at that trailer, or if it were a sizable amount or depending upon the conditions, the actual trailer would be interchanged or it's possible that, as I said before, the Gilbertville driver would meet our driver at the same [fol. 498] point and effect the interchange of freight in that way.

Q. In Gilbertville how is the interchange effected?

A. Pardon me?

Q. How is the interchange effected at Gilbertville, Mass.?

A. It perhaps might be done the same way in that we would drop a trailer and pick up one of theirs, or if it was only a small amount turn it over to them at that point.

Q. And at what point in Gilbertville would the interchange be made?

A. That would be at their terminal.

Q. Gilbertville; would it be anything other than the ordinary change of freight?

A. No, that's correct.

Q. At Ellington, is that the same situation as Gilbertville?

A. Yes, ma'am, it is.

Q. Now what determines whether the freight will be interchanged at Monson, Gilbertville, or Ellington?

A. Freight consigned to points in Connecticut or Rhode Island would be interchanged at Monson, and freight consigned to other points, Massachusetts points, would be done at Gilbertville or Ellington.

Q. And does the interchange arrangement work the same way when the freight is moving northbound or southbound?

A. Yes.

Q. Can you tell us whether or not freight that originates [fol. 499] on the Gilbertville line that is interchanged with Nelson is routed freight or non-routed?

A. Both ways.

Q. Do you know which is the preponderance?

A. No, I don't.

Q. Will you tell us or describe generally the service that is rendered by Nelson at the present time between the points it is authorized to serve?

A. You mean as to time?

Q. As to time in transit how it operates.

A. It's an overnight service that we render between New England points and New York and Philadelphia or vice versa.

Q. Now does the operating authority of Gilbertville extend—strike that.

To what extent would the merger of Gilbertville and Nelson extend the operating authority of the L. Nelson & Sons Company territory-wise?

A. Territory-wise it would extend or increase our coverage in Massachusetts, I believe, from the western portion, that is, west of the Connecticut River and some points in Rhode Island, and of course it would be of a general commodity nature.

[fol. 503] By Miss Kelley:

Q. To recapitulate, does the operation of Gilbertville and [fol. 504] Nelson, I mean virtually, overlap one another?

A. Virtually it does, yes.

Q. Now commodity-wise this will represent an expansion insofar as Nelson is concerned?

A. Commodity-wise, it would, yes.

Q. What has Nelson's accident record been during the past year?

A. Well, it's been very good. As a matter of fact I'm reluctant to say it because usually something happens when you do, but it has been good, it has been good.

Q. And in the event this transaction is approved and consummated, what position would Kenneth Nelson hold in the merged operations?

A. Actually it hasn't been determined what position he would hold. It would be something of a managerial capacity no doubt, but by his excellent sales record why it might well be in the sales field.

[fol. 508] By Miss Kelley:

Q. Mr. Chilberg, when I asked you the percentage or the volume of interchange between the L. Nelson & Sons and the Gilbertville Trucking Company, according to my notes you said that was 8 per cent of the dollar value of the gross revenue of the L. Nelson & Sons Company. During the recess have you reconsidered it and would you tell me what you meant by that 8 per cent?

A. Yes, I have rechecked it and I found I was in error in that the 8 per cent is the total interline, approximate interline with all carriers. With Gilbertville it would be between 2 and 3 per cent total.

Miss Kelley: That's all I have.

Exam. Baumgartner: Mr. Mueller, you may go ahead with your cross-examination.

[fol. 509] Cross-examination.

By Mr. Mueller:

Q. Mr. Chilberg, you referred to certain call stations where you stated there were telephone connections, for example, from Lawrence and Lowell, I believe, to Newton, and you spoke of a leased telephone line between Woonsocket and Newton.

A. Woonsocket and Worcester.

Q. Woonsocket and Worcester. Well, do you not have leased telephone lines between all of your terminals?

A. Yes, we do. The question was as to call stations and that is often times referred to or construed as being a call station with use of the Enterprise system.

Q. Is the Gilbertville terminal at Gilbertville considered a call station?

A. No, sir, it is not.

Q. Did you formerly have a teletype communication system?

[fol. 510] The Witness: Yes, sir, we did.

By Mr. Mueller:

Q. And was that between all of your terminals?

A. That is correct.

Q. And approximately when was that discontinued?

A. That has been discontinued—I'm not sure of the time—but it has been, I believe, over a year.

Q. Was it discontinued at all points simultaneously?

A. Correct.

[fol. 512] By Mr. Mueller:

Q. In conjunction with the interchange between Gilbertville and L. Nelson & Sons, which you have stated occurs at Gilbertville, are there any incidental services performed such as the preparation of freight bills or bills of lading or the receipt of phone calls?

Miss Kelley: I object. It's very obviously not related.

Exam. Baumgartner: I will overrule the objection. You may answer.

The Witness: To my knowledge there are no services performed whatsoever for us, for Nelson, at Gilbertville terminal.

By Mr. Mueller:

Q. I believe you stated that vehicles are occasionally [fol. 513] leased by Nelson from carriers other than Gilbertville.

A. I stated very, very rarely from other carriers, yes.

Q. Was that your testimony?

A. I stated very rarely.

Q. From whom would such equipment be leased?

A. I believe I said perhaps 2 or 3 times in the past year, and in that case they would have been leased from Gilbertville Trucking Company.

Exam. Baumgartner: Leased from whom?

The Witness: Gilbertville Trucking Company.

Exam. Baumgartner: That isn't the question as I understood it. The question was related to the leasing of equipment from carriers other than Gilbertville.

Mr. Mueller: That was my question, Mr. Examiner.

Exam. Baumgartner: What's that?

Mr. Mueller: That was my question.

Exam. Baumgartner: Yes; when he wanted to know what carriers they were.

The Witness: And I said Gilbertville Trucking Company.

Exam. Baumgartner: This was other than Gilbertville Trucking Company.

The Witness: None other than Gilbertville.

By Mr. Mueller:

Q. I believe that in answer to Miss Kelley you indicated that in the event of the consummation of the proposed [fol. 514] transaction the liabilities of Gilbertville will be assumed by Nelson as well as the assets. I'll ask you whether you were a signer of the contract which is attached to the application herein as Exhibit C-1 and will further ask you to tell the Examiner where in that contract is any provision made for the assumption of liabilities on the part of Nelson.

Miss Kelley: I object to the question, Mr. Examiner, in that it calls for a legal conclusion. We know that the agreement involves the stock and merger of the properties.

Exam. Baumgartner: Well, he is a party to this contract. I think he ought to be able to tell us what's in it and what isn't. I think the contract speaks for itself. It's either in there or isn't in there, but if he can point to some provision that he thinks covers the point, why let's have it.

The Witness: Your question was did I sign it, please?

Mr. Mueller: Yes.

Exam. Baumgartner: That was the first question.

The Witness: Yes, I did sign it.

By Mr. Mueller:

Q. And is there any provision in the contract for the assumption of Gilbertville's liabilities by Nelson?



A. I would have to take time to read this over to refresh my memory on it or refresh my knowledge of it, but I understood that that was part of the arrangement.

Q. Is that your answer?

A. Yes, sir.

[fol. 515] Q. Will you look at Paragraph 7 on Page 2 of the agreement, Mr. Chilberg.

A. Yes, sir.

Q. The one which states: "This agreement contains the entire agreement between the parties and there are no other agreements or understandings between the parties with respect to the subject matter involved in this transaction, and this agreement cannot be modified or amended except by a further agreement in writing signed by all of the parties." Has there been any further agreement in writing?

A. I don't believe so. Not to my knowledge there hasn't, and certainly I would have knowledge, but at least none that I can recall.

[fol. 517] By Mr. Mueller:

Q. Now, Mr. Chilberg, you indicated that in the event the merger were approved there would be an elimination of certain duplications. You have said that you did not anticipate the discharge of clerical employees and so on. What will become of Mr. Kashady and his prestige in the event of this proposed merger?

Miss Kelley: You dropped your voice at the end of the question, Mr. Mueller.

Exam. Baumgartner: Read the question.

[fol. 518] (Question read.)

Exam. Baumgartner: If you will strike the words, "and his prestige," out of that question, I will permit it to stand.

Mr. Mueller: Very well, strike the word.

The Witness: It is expected that Mr. Kashady will be retained.

By Mr. Mueller:

Q. Will he be a stockholder?

A. He will be retained status quo.

Miss Kelley: Mr. Examiner, can I ask the witness what he means by status quo in that case?

Exam. Baumgartner: I think everybody understands what it means.

Miss Kelley: I don't think he gives the same meaning to it that I do.

The Witness: By that I mean he will remain in the same capacity as far as his stocks and his position are concerned.

By Mr. Mueller:

Q. Will he have 24 shares of stock?

A. There is no anticipated change as far as that is concerned.

Q. Well, are his 24 shares a part of the transaction depicted on the Exhibit C-1?

Exam. Baumgartner: To what exhibit are you referring?

Mr. Mueller: Well, the exhibit attached to the contract which is Exhibit C-1 of the application.

Exam. Baumgartner: Yes.

The Witness: What was your question again, please?

[fol. 519] By Mr. Mueller:

Q. Is the Kashady stock included in that tabulation?

A. I believe it is.

Q. And your testimony is that he will retain 24 shares?

A. Those shares which he now holds.

Exam. Baumgartner: Well, Mr. Witness, did you prepare this tabulation?

The Witness: The tabulation was actually prepared by Mr. Solomon. I believe I have the correct one, C-1 you said?

Exam. Baumgartner: The exhibit attached to the contract which is Exhibit C-1 to the application. That's a tabulation that was made for the purpose of arriving at the share valuations, I believe.

The Witness: I will have to ask you to restate the question again, Mr. Mueller.

By Mr. Mueller:

Q. Well, as I understand the contract, Kenneth Nelson is contracting to sell 100 shares of stock to the Nelson Company.

A. That's correct. No, I believe that those 24 shares apparently will be returned to him at that time.

Q. Well, just what do you mean by that? To whom do you refer?

A. Those 24 shares will be returned by Mr. Kashady to Kenneth Nelson if this merger is consummated.

Q. Now I don't suppose you know whether any consideration will pass?

[fol. 520] Miss Kelley: I object to the question.

Mr. Mueller: I'm asking him if he knows.

Exam. Baumgartner: I'll overrule the objection.

Miss Kelley: But, Mr. Examiner, this witness has not been shown to have any knowledge of this arrangement with Mr. Kashady.

Exam. Baumgartner: Well, he can say so, can't he?

Miss Kelley: All right.

Exam. Baumgartner: In other words, I think he can take care of himself. If he doesn't know, he can just say so.

The Witness: I don't know.

By Mr. Mueller:

Q. I understood you to say on direct that the Nelson Company interchanged freight with some 15 or 20 carriers operating in the same general area as the Gilbertville operation.

A. No. I believe I said that in the same general area there were perhaps about 6.

Q. Well, now, are there differences between the interchange arrangements that you have with Gilbertville as contrasted to those you have with these 6 other carriers?

A. No, sir, there aren't.

Q. Do you ever handle freight in interchange with Gil-

bertville from the Nelson line at Ellington, Connecticut destined to points on the Gilbertville authority by means of L. Nelson & Sons equipment leased to Gilbertville?

. . . . .

[fol. 522] The Witness: No, none to my recollection.

By Mr. Mueller:

Q. Are interchange shipments handled through Monson, Connecticut?

A. Yes, sir, they are.

Q. And is Nelson equipment ever used in connection with the delivery of such shipments through Monson to points on the Gilbertville line?

Miss Kelley: I object to the question again, and I want to call your attention, Mr. Examiner, that this is a point [fol. 523] and this last question too is a point which the Government claimed that they were going to prove in this case, and now they're using this method to attempt to prove it.

Mr. Mueller: Mr. Examiner, we have had testimony on interline shipments.

Exam. Baumgartner: Just a moment, Mr. Mueller.

This is an issue you'd have to meet whether there was an investigation proceeding here or not. You'd have to answer to these questions on the application. Secondly, you're assuming there is something wrong about leasing equipment at an interchange point. You and I know that's commonly done day in and day out between carriers. Your objection is based on the assumption there is something wrong about it.

Miss Kelley: No, my objection is not based on the assumption that there's anything wrong about it, Mr. Examiner. My objection is based solely on the fact that the Government has claimed that there is something wrong with it and it's one of the basis that they have set down. It is a point which they claimed that they were going to prove in this case, but they should not attempt to prove it by the defendant.

Exam. Baumgartner: I will overrule the objection.

Will you answer the question, Mr. Witness?

The Witness: What was the question?

Miss Kelley: May we have the question again?

Mr. Mueller: Shall I restate it, Mr. Examiner?

[fol. 524] Exam. Baumgartner: Yes.

By Mr. Mueller:

Q. Does L. Nelson & Sons lease equipment to Gilbertville which is used by Gilbertville for the delivery of freight interchanged with Nelson at Monson, Massachusetts which is destined for points on the Gilbertville authority?

Miss Kelley: I'm sorry, Mr. Examiner, but that isn't a complete question in my mind. There is no question there. It's a statement there, isn't it?

Could we have it read?

Exam. Baumgartner: Read the question, please, Miss Reporter.

(Question read.)

Miss Kelley: I misunderstood you. Of course, I have my objection.

Exam. Baumgartner: You can answer that yes or no.

The Witness: Yes, they do.

By Mr. Mueller:

Q. Are there any other points at which such interchange is by means of leased equipment?

A. I believe I said before that it didn't occur in Ellington, and now when you ask that question it is true that they do lease from us at Ellington.

Q. At what other points do they?

A. Primarily those two.

Q. Monson and Ellington. Has it occurred in Gilbertville?

A. I don't recall any.

Q. Now, when you interline shipments between Nelson [fol. 525] and Gilbertville, what consideration is given to the revenue accruing on the interlines in determining the divisions?

A. It's on a pro rata basis.

Q. Based upon revenue?

A. Yes, sir.

Q. Has that practice been in effect long?

A. You're referring on interline freight?

Q. Interline freight.

A. That's correct, it has been.

Q. For how long?

A. Ever since it—that same practice is in effect with us with all carriers including Gilbertville. The minute we interline with a carrier a pro rata system is set up.

Exam. Baumgärtner: Upon what is the pro rata based?

The Witness: Between Nelson and Gilbertville?

Exam. Baumgärtner: Between your company and the other transportation companies.

The Witness: In this case, or between Nelson and Gilbertville it's a 60-40 division; Nelson getting 60 per cent and Gilbertville getting 40.

By Mr. Mueller:

Q. Is that the identical basis that you use in interlines with other carriers?

A. The percentage, from a percentage standpoint that is true. However, with Gilbertville that percentage is stabilized in that with the different—over a period of time it is [fol. 526] equalized. When I said before a pro rata basis, I actually meant that the division was set up on a percentage between the two carriers and did not vary. It's stabilized at 60-40.

Q. That percentage prevails regardless of the length of the haul?

A. That's correct.

Q. By either carrier?

A. That's correct, and over a period of time it has been shown to be just about the same whether it be—in other words sometimes they would have the short haul and occasions we would, so it would actually work itself out as to being pro rata set up all the way through, if you know what I mean.

Q. Just for clarity, who gets the larger share of 60?

A. Nelson gets 60 and Gilbertville gets 40.

Q. In conjunction with your interlines with Gilbertville, who does the billing, Mr. Chilberg?

Miss Kelley: Can I have a running objection to all these questions, Mr. Examiner, I trust?

Exam. Baumgartner: Your objection is noted, Miss Kelley.

The Witness: I'm not too sure, but I think Gilbertville does the billing. I'm not too certain about it at the moment.

By Mr. Mueller:

Q. Do you know who collects the charges on it, who sends out the freight bills in connection with shipments that are interlined between the two carriers?

Miss Kelley: I object. If my understanding is correct, [fol. 527] wasn't that the same question as your previous question, "Who does the billing?"

Exam. Baumgartner: He is now asking who makes the collections of the freight charges, am I right?

The Witness: It would be the same company that sends out the bills.

By Mr. Mueller:

Q. That may be Gilbertville?

A. I'm not certain on that point. I would have to check that to be sure.

Exam. Baumgartner: Well, does Gilbertville do the billing where the shipment terminates on your line and delivered by your line to the consignee? Does Gilbertville bill for that?

The Witness: It may, yes, if I'm correct in that Gilbertville does the billing, that is correct, and we bill them for our portion.

Exam. Baumgartner: Am I to understand that Gilbertville does the billing with respect to all freight that's interlined between Nelson and Gilbertville?

Miss Kelley: Well, Mr. Examiner—

Exam. Baumgartner: It does?



Miss Kelley: The witness didn't say that. He said he is not sure, that he has to recheck.

The Witness: Assuming that I was correct, that is so, but as I say I'm not too sure. In other words, Gilbertville would do all the billing and do all the collecting; then we in turn would bill them for our portion.

[fol. 528] Exam. Baumgartner: Irrespective of the fact that the shipment terminated on your line, was delivered by your line?

The Witness: That's correct.

[fol. 539] By Mr. Barrett:

Q. Mr. Chilberg, do you have any knowledge as to whether or not Mr. Kenneth Nelson if this merger is approved and consummated will become an officer in the Nelson Corporation?

A. At this moment I do not know.

Q. Has there been any discussion about it at all to your knowledge?

A. There has been discussion about it, but nothing has been conclusive.

Q. You have a list of the exhibits we were using yesterday?

A. I don't think so.

Q. Exhibit No. 3 shows an operating revenue of Nelson for the—

Miss Kelley: Pardon me, I have misplaced that. What is that exhibit?

Mr. Barrett: Operating statement of Nelson for the year of 1955.

Miss Kelley: Thank you.

By Mr. Barrett:

Q. To continue with my question, it shows a gross operating revenue of nine hundred twenty-four odd thousand dollars. Now my question is—that's correct, is it not?

A. If it's stated on the exhibit, that's correct.

[fol. 540] Q. Now my question based on that is how much of that total freight revenue comes from intrastate commerce?

A. I do not know. I do not know at the present time what the percentage would be.

Q. But whatever there is is included within that?

A. That's correct.

Q. Now you're familiar with Nelson's over-all operations, are you not?

A. Yes, sir.

Q. Are you in a position to give us an answer as to the total volume of traffic then that Nelson might handle in interstate commerce as against that in intrastate commerce?

A. Well, I said that I don't know what the percentage of intrastate would be, and I am not prepared to say. I could give an estimate, but I would not be sure.

Q. Then as far as this proceeding is concerned—let me withdraw that question.

If I asked you the same question relative to other statements of income of Nelson that have been introduced in this proceeding, would the answer be the same, covering different periods?

A. As to the amount of intrastate?

Q. Yes.

A. That's correct.

Q. And as far as this proceeding is concerned, then, we do [fol. 541] not know whether 1 per cent or 99 per cent of the revenues you show in these statements are interstate revenues as against intrastate?

A. The majority, of course, is interstate, but beyond that I'm not prepared to give an estimate on intra.

Q. All right. Do you mean more than 50 per cent at least is interstate?

A. That's correct.

Q. That is as far as you can define it?

A. I could perhaps define it down further than that, but I would have nothing, or I can't give you anything exactly. Let me say it's better than 75 per cent interstate. Beyond that I definitely wouldn't be able to pin it down. I don't know.

Q. Well, that's better. I didn't ask you for an exact figure. I asked you for a reasonable estimate. Now, R. A. Byrnes is controlled at the present time by you and your brother, is that correct?

A. Correct.

Q. Does the Byrnes Company interchange with Nelson?

Exam. Baumgartner: Does the Byrnes Company what?

Mr. Barrett: Interchange with Nelson.

The Witness: They do if it happens to be a commodity which we can handle, yes.

By Mr. Barrett:

Q. And where is that interchange effected?

A. That would be effected at New York.

[fol. 542] Q. And is there any predominant amount of interline between Byrnes and Nelson?

A. No.

Q. Now, does Byrnes interchange freight with Gilbertville?

A. Yes, they do.

Q. And where is that effected?

A. That would be at New York also.

Q. And to what extent is interchange carried on between those two companies?

A. I wouldn't be prepared there either to give you an estimate, but it isn't too much.

Q. Does Gilbertville lease equipment from Byrnes to your knowledge?

A. No, they do not.

Q. Does Nelson?

A. Does Nelson lease from Byrnes?

Q. That's correct.

A. No, they do not.

Q. And vice versa, does Byrnes lease equipment from either Nelson or Gilbertville?

A. Byrnes does lease from, some from Nelson, but Byrnes does not lease any from Gilbertville.

Q. Now you were asked a question on the leasing of equipment by Nelson.

Exam. Baumgartner: By Nelson to others, you mean?  
[fol. 543] Mr. Barrett: By Nelson from others.

By Mr. Barrett:

Q. Now that is a question I wanted to ask you. Does Nelson lease equipment to other carriers?

A. Yes.

Q. Among those other carriers does it lease equipment to Gilbertville?

A. Yes.

Q. To carriers in addition to Gilbertville?

A. Other than Byrnes, no, not that I can recall.

Q. How much equipment is leased?

Exam. Baumgartner: Let me ask you a question at this point, may I?

Mr. Barrett: Yes.

Exam. Baumgartner: Didn't you testify a while ago that you interchanged traffic with carriers other than Gilbertville and Byrnes?

The Witness: Yes, sir.

Exam. Baumgartner: Now is there any interchange of equipment involved in the interchanges with carriers other than Gilbertville?

The Witness: There is interchange of equipment between other carriers as well, yes.

Exam. Baumgartner: Well, isn't that tantamount to leasing equipment to other carriers?

The Witness: No, it could be on a trailer-interchange [fol. 544] plan.

Exam. Baumgartner: Well, isn't that leasing?

The Witness: No. If you have an interchange or a trailer-interchange agreement with another carrier, you or he would take your trailer and you would take one of his; it's an interchange plan, but it's not actually a lease between the two. It is a common practice in the industry.

Exam. Baumgartner: I understand that, but I see now what you mean by lease and what you do not mean by it. I just wanted this record to be clear on the question of leasing that was propounded by Mr. Barrett.

By Mr. Barrett:

Q. Do we understand one another, Mr. Chilberg, when I'm referring to leasing of equipment between carriers I'm not referring to the ordinary interchange of trailers?

A. I think so, yes.

Q. Now, I believe my last question was to the effect that to what extent does Nelson lease equipment to Gilbertville if you can give it by day, week or month or what.

A. It varies. I wouldn't be able to give you anything other than perhaps a minimum or maximum. Beyond that I wouldn't be able to.

Q. Would you give us that?

A. I would say it would perhaps be from a maximum or a minimum of 1 to 6 or 7.

[fol. 545] Q. Per what?

A. It might even be per day. May I amend that to say from none to 6. I don't want to be misunderstood on that point.

Q. From none to 6 per what?

A. Per day.

Miss Kelley: What was that?

The Witness: Per day.

By Mr. Barrett:

Q. And now one other question on that point: In the average week, how many days are there where they do not lease any equipment from them?

A. Frankly I have never checked it. I would have to check it to find out how many days in a week when they wouldn't lease. I don't know.

Q. May I ask you this question: Is it rather consistent that you lease some equipment to Gilbertville almost every day of the week?

A. Almost every day, I would say, depending upon our ability to let them have it when they wanted it.

Q. And dependent upon your need for them?

A. It's first dependent on our need to let them have it. Our freight moves first, and if we have a piece that they may need, if we are not going to use it and we see no need for it during the day, then they may lease it.

Q. Now, specifically, what equipment do you lease to Gilbertville and by you I mean your corporation?  
[fol. 546] A. What types?

Q. Yes.

A. It would be tractors and on occasions trailers and tractors.

Q. Now, it is true, is it not, that the Byrnes Company, the Gilbertville Company, and the Nelson Company all share a common terminal in New York or at least from the same building?

A. Together with another trucking company, yes.

Miss Kelley: To clarify the record, Mr. Examiner, can we have the name of the other trucking company?

Exam. Baumgartner: Yes, surely.

The Witness: The other trucking company is Smith & Jordan.

Miss Kelley: Who?

The Witness: Smith & Jordan.

By Mr. Barrett:

Q. Now, will you explain the facilities, forgetting what Smith & Jordan has, what facilities Byrnes, Nelson and Gilbertville have in New York?

Miss Kelley: I object to the question, Mr. Examiner, because how a person can describe facilities and forget the part that one has, it's impossible. If he's got to describe the New York terminal—

Mr. Barrett: Let me withdraw that question.

By Mr. Barrett:

Q. This other trucking company, Smith & Jordan, do they occupy a part of that building?

A. Correct.

[fol. 547] Q. Is that separate from the part that these other companies operate?

A. No, sir.

Q. Will you describe the facilities as they exist?

A. The facilities in New York, you might say, were built by sections. By that I mean there is one section added on to

another. The offices are, and again I'm referring to platform and storage area, the offices are in somewhat of a separate building right close to the platform and are segregated into three parts. As far as terminal facilities are concerned, the dock area and so on, there is no actual designation as this is your spot and this is mine and so on. It's a matter of where actually we try to stick to that, but I have gone into the New York terminal where I have seen Smith & Jordan trucks at the docks where perhaps we normally would be and vice versa.

Miss Kelley: When you say, "we," Mr. Examiner, for the sake of clarity, when Mr. Nelson says, "we," and three companies were named, can't we have the record show what company he was referring to?

The Witness: I was referring to Nelson or Byrnes as to the location where they normally use the dock.

Exam. Baumgartner: Nelson or Byrnes?

The Witness: Yes.

Exam. Baumgartner: Is Gilbertville there too?

[fol. 548] The Witness: They operate out of that terminal.

Exam. Baumgartner: Smith & Jordan on the one hand and—when you say three, did you mean any one of these three?

The Witness: You might include Gilbertville in that, although I'm referring primarily to Nelson and Byrnes. I have no interest in looking out for where their trucks were at the city or terminal.

Exam. Baumgartner: Well, that's just a question of how the terminal is being used by the four carriers.

The Witness: Correct.

[fol. 549] By Mr. Barrett:

Q. You stated four carriers share that terminal?

A. Correct.

Q. Smith & Jordan?

A. Correct.

Q. You stated sometimes you'd find Smith & Jordan using the part that your trucks normally use?

A. Correct.



Q. I inferred from that answer, and if I'm wrong correct me, is there some unwritten law or understanding or as far as practical allowing for business conditions and so forth, that Smith & Jordan for the most part uses one part of the terminal?

A. I don't think there is any unwritten law or an understanding. If by chance their drivers become accustomed to using a certain dock area, that might be the case and that's, I believe, solely how it develops. We don't have any—[fol. 550] as I said before—arrangement that we'll use this and that.

Q. If I amend my question by asking you by usage and custom, does that occur?

A. I think I would have to say perhaps yes.

Q. Now, in that usage and custom does Gilbertville use the portion of the terminal that is normally used by Byrnes and Nelson?

A. I think the same condition would prevail there too, in that Smith & Jordan could be over in the area where we would perhaps normally be docked and vice versa. I think the same situation prevails there with other truckers than Nelson or Byrnes. On interline carriers who come in—

[fol. 552]

By Mr. Barrett:

Q. You recall before lunch, Mr. Chilberg, we were talking about your terminal facilities at New York City, Long Island City?

A. Yes, indeed.

Q. And it is used by Gilbertville, Byrnes, Nelson, and a fourth carrier?

A. Correct.

Q. Now, does your company have dispatchers, a dispatcher at that terminal?

A. Yes.

Exam. Baumgartner: Have a what?

Mr. Barrett: Dispatcher.

By Mr. Barrett:

Q. Does Gilbertville?

A. I presume they do.

Q. Do you know?

A. I don't think I'd be qualified to answer what they have down there.

Q. Does Byrnes, or is it a common dispatcher?

A. Common between Nelson and Byrnes.

Q. Do you know whether that dispatcher also dispatches equipment for Gilbertville?

[fol. 553]. A. I'm sure he doesn't. At least he is told to handle only Nelson and Byrnes.

Q. If I ask you a general question as to several terminals that are shared by Nelson and Gilbertville, do you know—I presume Nelson has a dispatcher in each one?

A. That's correct.

[fol. 554] Exam. Baumgartner: Let me ask this question of the witness: Do you know whether or not Gilbertville uses the services of the same dispatcher at the other terminals as Nelson uses or employees?

Miss Kelley: I object to the question whether asked by the Examiner or otherwise.

Exam. Baumgartner: I'm asking if he knows.

Miss Kelley: Oh, I see.

Exam. Baumgartner: Do you know?

The Witness: I would have to answer that they are instructed to handle only Nelson men and equipment.

Miss Kelley: Do you get what the Examiner is asking you, Mr. Chilberg?

Exam. Baumgartner: I asked you if you knew whether these dispatchers employed by Nelson at terminals other than the one we were discussing dispatch or perform dispatching services for Gilbertville as well as Nelson. I ask you do you know whether they do?

The Witness: No, I do not know.

By Mr. Barrett:

Q. Are you familiar with your company's terminals?

A. Which company?

Q. Nelson's.

[fol. 555] A. Yes, I am.

Q. And are you familiar with the fact that Gilbertville also occupies these terminals in conjunction with Nelson?

A. Some of them, yes.

Q. And have you ever seen dispatchers of Gilbertville in these terminals?

A. Yes, I have.

Q. What terminals?

A. Woonsocket, Newton, and in Ellington.

Q. At your home terminal at Ellington, how many units a day, if you know, does Gilbertville have coming in and out of that terminal?

Miss Kelley: I object. This witness has been put on as the Nelson witness. I object to the question being directed to him which relates to Gilbertville. We'll have the Gilbertville witness on the stand, Mr. Examiner.

Mr. Barrett: I asked this witness if he knew.

Exam. Baumgartner: Do you know?

The Witness: No, I do not know.

[fol. 560] Q. In other words, is there a common telephone number for Gilbertville and Nelson at the Newton terminal?

A. Your question is is there?

Q. Yes.

A. I know that Nelson has a telephone number in Newton. I do not know whether or not Gilbertville has that listing because I have never seen it in the telephone book.

Q. If I asked you the same questions relative to your other terminals at least those where Nelson and Gilbertville have joint facilities, would the answer be the same?

A. They would.

Q. Now, you stated that if this application were approved you contemplate no terminal change, correct?

A. That is correct, as I stated this morning, although there might be some changes in regards to the possible

setting up of a terminal in Springfield. I outlined that myself this morning, I believe.

Q. Are you contemplating the possibility of establishing a facility at Springfield, Springfield terminal at Springfield if this application is approved?

A. Yes; I daresay that if this merger is approved we are contemplating such a move.

Q. Now, you have been mentioning Monson and another [fol. 561] place as a point of interchange between Gilbertville and Nelson. Will you tell us exactly what facilities are at Monson where you effect this interchange?

A. As I stated, I believe this morning, that there were occasions when the physical interchange would take place with actual meeting of the two different trucks on the road.

Q. You told us how it was done this morning?

A. Yes.

Q. Now I'm asking you where and what facilities there are.

A. A trailer is parked or spotted in Monson for the receipt of freight or for the use of that handling of that freight.

Q. Is that a usable trailer?

A. It's a usable one.

Q. And is that trailer left all the time, or is that one taken and replaced?

A. If that one is taken out it's immediately replaced.

Q. Who is the owner of that trailer station?

A. It might be Gilbertville; it might be Nelson. Originally, incidentally, it was Gilbertville's, and by virtue of the interchange it does change.

Q. Where is that left, in the field or what?

A. Well, it's a parking lot. It's a lot suitable for that sort of thing.

Q. Just a public parking area?

A. I don't think it's public. It's privately owned, I'm [fol. 562] quite sure of that.

Q. There is no ownership by the Gilbertville Company or Nelson of the property?

A. That's correct.

Q. Assuming that trailer is there empty today and Nel-

son comes up and puts some freight in it, I take it that's what happens?

A. Correct.

Q. What happens after the freight is put in it?

A. When Nelson is going to put freight in that trailer, Gilbertville is notified of that handling and then they come and pick it up or handle it whatever way they'd want to handle it. In other words, they are notified it is being put there or that it is there and they come and I presume pick it up for the delivery.

Q. In the reverse direction, assuming Gilbertville comes along and puts freight in the trailer—

A. Correct.

Q. —the same thing happens?

A. That's exactly right.

Q. At all times there's somebody to check the freight in and out of that trailer no matter who puts it out?

A. There isn't anyone stationed there to check the freight in and out.

Q. Now where is the principal hub of Nelson's operations [fol. 563] today? Do you understand what I mean by that?

A. I wish you would explain it a little more.

Q. The hub, the principal base where all their operations fan out from.

A. I would say at the main office in Ellington.

[fol. 566] Q. Do you know—I'm just asking you to your knowledge—do you know how Gilbertville provides its operations between Boston and New York today?

A. No, I do not. The same answer would apply to most any trucking company. I have a knowledge just if I would about J. A. Garvey, but explicitly I don't.

[fol. 637] Q. You stated on direct examination in regard to the merger that Nelson wanted to go south, is that correct?

A. That's correct.

Q. And that's when you bought the R. A. Byrnes stock [fol. 638] and that did go south to some extent?

A. That's correct.

Q. Is it your anticipation in the future to merge the properties of Byrnes into Nelson allowing for your accountant's advice and the tax problems and the tax savings that are involved?

A. When it is expedient, we do intend to merge the two with Nelson, yes.

Q. But meantime you want to take advantage of the tax benefits that might accrue?

A. That's correct.

Q. Incidentally, before I continue on my notes here, has Nelson ever operated tank vehicles to your knowledge?

A. No, they have not.

Q. And to your knowledge has Gilbertville operated tank vehicles?

A. To my knowledge they have not.

Q. So then neither carrier to your knowledge has transported commodities in bulk?

A. That's correct.

Q. Now you testified that Nelson in addition to Gilbertville interlines with some 15 to 20 other carriers. Do you recall that testimony?

A. Yes, I do.

Q. I presume that 15 or 20 is an estimate?

[fol. 639] A. That's correct.

Q. Of those, your company interlines with carriers at Philadelphia, does it not?

A. It does.

Q. Can you estimate how many of—strike that.

And those carriers transport traffic to or from south or west of Nelson's lines?

A. That's correct.

Q. Out of this 15 or 20 other carriers, can you estimate how many of those are carriers who interchange with you at Philadelphia?

A. I would say that the majority of them would be those that interline with us at Philadelphia, although at the moment I wouldn't be able to give you an approximate number of them.

Q. You interchange with other carriers at Boston to or from traffic moving in northern New England states?



A. Yes, we do.

Q. Approximately how many there if you can tell us?

A. Well, I would estimate perhaps two or three. There may be more.

Q. And those carriers transport traffic to or from points generally that neither Nelson nor Gilbertville serve, is that correct?

A. No, the figure that I gave yesterday—beg your pardon. That is true in some respects. By that I mean some [fol. 640] of those carriers that we transfer to in Boston operate in a more northerly direction, whereas there are some that we transfer to that serve the territory similar to or the same as Gilbertville that are more westerly in Massachusetts.

Q. Well, just so my question will be clear, I was asking you for the number of carriers that you interchange with at Boston that serve points in the three northern New England states and you said three or four.

A. That's correct.

Exam. Baumgartner: What three states do you refer to, Mr. Barrett?

By Mr. Barrett:

Q. Did you understand them as Maine, New Hampshire and Vermont?

A. I did.

Q. Now, in addition you stated that there was or there were some carriers that you interchange with that serve the same or similar territory served by Nelson and Gilbertville?

A. Not exactly. I believe I said that Nelson transfers or interchanges freight with other carriers that serve similar or the same territory as Gilbertville.

Q. Where do you interchange with those carriers?

A. We interchange with those carriers at Woonsocket, Worcester, and I believe in some cases in Springfield.

Q. Now, how many such carriers are there that serve substantially the same territory as Gilbertville?

[fol. 641] A. I believe I stated about 6 all tolled.

Q. Could you name them or at least some of them?



A. Yes; Salem Brothers, Blue Line Express, Holly's Express. I can't think of any others at the moment.

Q. Now, Holly's Express serves substantially the southern part of the State of Rhode Island?

A. That's correct.

Q. And generally is that the traffic you interchange with them, southerly Rhode Island traffic?

A. Some of it, yes.

Q. What other traffic do you interchange with them moving into what general areas?

A. At the moment the only traffic that I can think of would be to the southerly part of Rhode Island.

Q. And just for the record, Holly's is a carrier located in Rhode Island?

A. Correct.

Q. Blue Line Express is a carrier located in, I think it's New Hampshire, right?

A. Nashua, New Hampshire.

Q. Generally what traffic, where do you interchange with that carrier, generally?

A. We interchange with that carrier in Woonsocket or Worcester or even on occasions we'll make arrangements to meet their truck up in the Lowell-Lawrence area, and [fol. 642] by that I mean we'll meet them on the road and interchange freight between us in that way, and it is for freight destined to points in New Hampshire and in some cases Vermont, I believe.

Q. Now I ask you the same question relative to Salem Brothers. Can you answer it?

A. Salem Brothers, it's interchanged with them, I believe, it is Worcester. That would be for freight destined to the western part of Massachusetts.

Q. To backtrack a little bit, I assume the majority interchange point with Holly is Woonsocket?

A. That's correct; with Holly?

Q. Yes.

A. That's correct.

Q. Now, other than these figures and carriers you have given us where the interchange is at a New England point, the balance of them are the Philadelphia interchange carriers?

A. Not completely. We do interchange with a few carriers in New York, New York City.

Q. Approximately how many?

A. Offhand, perhaps two or three, I'm not too certain.

Q. Allowing for that estimate of two or three, would the balance be the interchange of Philadelphia carriers?

A. Yes. You have to allow to my figures as to the total, I'm not exact.

Q. I realize you're giving estimates. Now the three New [fol. 643] England carriers you interchange with, is that routed or unrouted traffic?

A. Both ways, routed and unrouted.

Exam. Baumgartner: By the word routed, I presume you mean routed by the shipper?

Mr. Barrett: That's what I understood.

By Mr. Barrett:

Q. Did you understand the same?

A. That's correct.

Exam. Baumgartner: Of course, all freight is routed by someone.

By Mr. Barrett:

Q. Now you stated with Gilbertville you made the interchange at your three points, Monson, Gilbertville, Mass., and at Ellington, Connecticut, do you recall that?

A. Yes.

Q. Will you first tell us what's the determining factor as to where or which of those three points the interchange is expected?

A. The determining factor would be as to what gateway must be observed.

Q. By whom?

A. By Gilbertville.

Q. Now, let's take it first on northbound operations out of New York, we'll say destined to a point in Massachusetts, and of course I'm presuming it's a shipment that comes within Nelson's scope of authority. What destination points [fol. 644] are interchanged at Monson?

A. Those points for delivery in Connecticut or Rhode Island.

Q. Now, assuming there is such a shipment on one of your vehicles that leaves New York, and we'll assume it's a less-than-truckload shipment for the moment, will you tell us physically how that is handled by your company up until the point that Gilbertville takes it?

A. Up until the point that Gilbertville takes it?

Q. That's right.

A. It would be, of course, combined with other lading of our commodity and it being an LTL shipment would be broken down at Rockville and that truck would be destined to some other point, of course, and would effect the interchange at Monson as I outlined yesterday, either by meeting a Gilbertville truck on the road or transferring the freight on a trailer that is stationed there or the interchange of those two trailers.

Q. We are referring now to less-than-truckload shipment?

A. Yes.

Q. That would not be interchanged with the trailer?

A. Yes and no. It may or may not depending upon the expediency of the movement.

Q. Assuming it was a 500-pound shipment?

A. It would be transferred, perhaps, to the trailer that is standing there.

Q. Now, on the similar movement from New York City [fol. 645] except that it's a truckload shipment, how would that be handled?

A. Destined to points in Connecticut?

Q. There would be interchange at Monson?

A. That's correct.

Q. Now the questions I'd like you to answer are these: What would be the destination point of that truckload shipment that was interchanged at Monson and how would it be handled by your company until it gets to Monson?

A. It would be brought into Rockville as normal, as would be normal, and the driver would be dispatched from Rockville to Monson to—in the case of a straight load the interchange of the trailer.

Q. If it were interchanged at Monson, generally what's the destination point?

A. Generally where?

Q. Yes, what area?

A. Of course you might be delving into which direction our traffic is running, but generally speaking it might be considered as being Rhode Island.

Q. Now isn't it a fact that your own company has authority to serve a major portion of the State of Connecticut?

A. Isn't it a fact?

Q. Yes.

A. That's correct.

Q. Is it your company's practice to transfer to Gilbert-[fol. 646] ville at Monson traffic that is destined to points that can be served directly in Connecticut?

A. Will you restate that?

Q. Is it your company's practice to interchange with Gilbertville at Monson traffic to a point in Connecticut or Rhode Island that your company is authorized to serve direct under its own authority? Do you understand the question?

A. I do, but it occurs to me, it occurs to me now, in the previous questions we have not been talking about wool or have I been wrong?

Q. Before you go ahead, I think the first question on this line I put in assuming it was a commodity that Nelson was authorized to transport.

A. To go beyond our territory in either Connecticut or Rhode Island?

Q. I didn't ask you that question then; I'm asking you now. I asked you again to what territory, into what territory was the destination point and you said Rhode Island and Connecticut as far as Monson interchanges.

A. If you don't mind, I should like to perhaps straighten the record out in that I want it clear that we do not transfer freight to Gilbertville to points that we are authorized to serve. Now if it has gotten or is construed to be that, it was erroneous and I don't mean to infer that. In points or to points in Rhode Island and Connecticut that we are [fol. 647] not able to serve, they are the ones that are transferred in some cases to Gilbertville or other carriers I have mentioned before.

Q. So, in short, you provide direct service to your own points?

A. Wherever possible, absolutely.

Q. Now, as far as the interchange at the Gilbertville terminal is concerned, first in a shipment moving out of New York by your company, your company transports, where is that traffic generally destined?

Miss Kelley: I'm sorry, could I have that question read?

(Question read.)

Miss Kelley: Thank you.

The Witness: It would be destined to points in Massachusetts.

By Mr. Barrett:

Q. Once again, would it be destined to a point in Massachusetts that Nelson could serve direct?

A. On occasions we have done that in that it might be to a point where we do not plan to serve or to a point we are not planning to serve that day due to the fact that the amount of freight doesn't warrant going there. We have done that with other carriers in that we'll transfer an item to them to a point which we are authorized to serve but for economy reasons we'll transfer it to another company, and that is true on occasions with Gilbertville on that point.

Q. As a common practice among common carriers for economy reasons, particularly on less-than-truckload shipments, that is done, is that not right?

A. I believe that is the practice, true.

Q. But my question was based on generally.

A. Generally we do not do that.

Q. Now speaking generally once again, and to allow that practice just described as an exception to the rule, what areas in Massachusetts is this traffic destined that your company would interchange with Gilbertville at Gilbertville?

A. You want me to name the cities or the sections?

Q. The sections of the state.

A. I would say the northern, the north central portion of Massachusetts, if you follow me. Let me say perhaps more concisely, north of Worcester, those points north of Worcester or northwest of Worcester. Do you know the point I mean?

Q. Well, if it helps to give the areas of the state with relation to some principal cities.

A. Surely, Fitchburg, Leominster, Gardner, in that area there, Spencer, Mass.

Q. Now, while you have the map out, how about—is that the only general area you interchange with Gilbertville?

A. That is the only area that I can think of at the present time.

Q. And as far as the movement is concerned out of New York to Gilbertville, is it substantially the same as you described for the Monson interchange? In other words, it goes into Rockville and then it's taken to the interchange point?

[fol. 649] A. That's right.

Miss Kelley: Mr. Examiner, I'm wondering if there will be confusion in the record with reference to Gilbertville, Mass., and Gilbertville Trucking Company. In those last few questions, I believe it was clear, Mr. Barrett, that you meant interchange at Gilbertville, Mass.

Exam. Baumgartner: At the point of Gilbertville.

Mr. Barrett: That's correct.

By Mr. Barrett:

Q. So the record will be clear, your company does not interchange with any other carrier at Gilbertville, correct?

A. That's correct.

Q. Only Gilbertville Trucking?

A. That's correct.

Q. Any time Gilbertville is mentioned it will refer to Gilbertville Trucking Company where the point is mentioned?

A. That's right.

Q. Now, once again, in reference to Ellington, Connecticut, interchange with Gilbertville Trucking Company on shipments moving northbound out of your New York-Philadelphia area, what traffic is interchanged at Ellington?

A. It would be traffic consigned to Massachusetts points.

Q. And would you tell us how that physical operation is effected?

A. That is effected by the arrival—from the arrival of [fol. 650] the road trucks.



Q. Nelson road trucks?

A. That's right. They'd be broken down at Ellington.

Q. At Ellington?

A. Right.

Q. And then what happens?

A. For transfer to whatever carrier is going to be involved.

Q. Well, here we are referring specifically to Gilbertville only.

A. Then, in many cases they would be—or that freight would be delivered to them at Gilbertville or they would be told that we have freight for them and each case perhaps would be—or each day's activity would be handled as a separate handling. In other words, it would vary.

Q. Now, as far as part of your answer to that question is concerned, you stated it would be turned over to them at Gilbertville?

A. Correct.

Q. In my preceding line of questions I asked you about interchange with Gilbertville which would include that traffic.

A. We would also turn traffic to them at Gilbertville as well as other points. I stated before, for economy reasons we wouldn't want to cover.

Q. And in addition you interchange at Ellington?

A. That's right.

[fol. 651] Q. And you described your company's road tractor, road vehicle, would bring the shipment into Ellington and then you would call Gilbertville and tell them there was freight there and to pick it up.

A. Notify them it was there because they operate out of that terminal; they would be notified there was freight to be handled by them.

Q. And they pick it up from the docks in less-than-truckload shipment and take it to a destination in Massachusetts?

A. In some cases. We would always take it as far as we possibly could. If it were in line with our traveling in Massachusetts and we could drop it off at Gilbertville, we would do it.

Q. I understand that Mr. Chilberg, but we have already



talked about Gilbertville interchange. Now I'm asking you about Ellington. That freight which you interchange at Ellington would be picked up at the docks there and taken to destination?

A. That's correct.

Q. Or, in the case of that being truckload what would happen where the interchange was at Ellington, Connecticut?

A. They would also—that same thing would be true in that they would be notified of a truckload shipment and it would be their responsibility to handle it after that.

Q. And in some cases where they are informed that there is a shipment for them at Ellington, do I understand correctly from your prior examination that equipment is leased from your company to them to handle the shipment?

A. Only if they don't have equipment of their own and we are able to lease to them.

Q. And in some instances that happens?

A. In some instances it does, yes.

Q. Now, if I asked you the same questions relative to the interchange between your company and Gilbertville on traffic moving in the reverse direction, in other words from New England to New York and Philadelphia, interchange at these three points, Monson, Gilbertville, and Ellington, would your answers be substantially the same?

A. They would.

Q. Where there is interchange of traffic between your company and Gilbertville at Monson on an interchange of trailer basis, is that always trailer for trailer?

A. You're speaking of full-load interchange?

Q. Well, I assume that's the majority of the times when you interchange trailers.

A. Correct, that's a physical interchange of trailers at that point.

Q. On an interchange of trailer basis?

A. That's correct. One company would bring one, take the one that's there whether they'd be dropping or picking up a full one.

[fol. 653] Q. Now, between the three points, Gilbertville, Ellington, and Monson, at which of the three is the majority of the interchange effected?

A. I wouldn't be able to say; I do not know. I'm not in on every move by any stretch of the imagination.

Q. I realize you're not, Mr. Chilberg, but you must have some knowledge, being the head of the company, as to where the predominant amount of it is.

A. No, I'm sorry to say I do not know.

Q. Do you know how frequently you interchange at Ellington with Gilbertville?

A. Other than saying I believe it is frequently, I wouldn't be able to qualify it any further than that. It is rather frequent.

Q. Would you say as a general rule it's almost daily?

A. I wouldn't. I would rather not be pressed to say other than what I have. It is frequent. Beyond that I do not know. I'm out of the office a great many days, and I do not know.

Q. If I asked you the same question about Gilbertville?

A. The same would hold true.

Q. And Monson?

A. That's correct.

Q. Let me ask you this to your general knowledge: At Monson there is, practically no facilities for interchange, is that correct, other than the trailer station there?

[fol. 654] A. Other than the trailer station there, that's correct.

Q. At Gilbertville and Ellington I take it there are terminal facilities at both of those points?

A. Correct.

Q. Normally, could you tell us in view of those physical circumstances whether or not there is more interchange at Gilbertville and Ellington than at Monson?

A. The thing that determines it as far as Monson is concerned is destination of the freight.

Q. I realize that, but keeping that in mind, do you know whether or not because of the flow of the traffic whether there is more traffic interchanged at Monson than other points or vice versa?

A. No, honestly I can't give you any better estimate of what the volume is out of either one of those three points.

[fol. 669]            Redirect examination.

By Miss Kelley:

[fol. 670]            By Miss Kelley:

Q. Mr. Chilberg, do you recall some questions of Mr. Mueller yesterday with respect to the stock which is registered to Mr. Kashady?

A. Yes, I do.

Q. Now, will you tell us whether or not you understand under the terms of the agreement that Gilbertville stock is to be exchanged proportionately for the Nelson stock?

[fol. 671] A. That's correct, I do understand that.

Q. Now in the future or after the merger, if Mr. Kashady is a stockholder-at all will that be of Nelson stock?

A. That's correct.

Q. Mr. Chilberg, it appears that your company has a substantial pool of equipment. Is the equipment normally operated to full extent daily in the Nelson operation?

A. In our particular line of specialized commodities, namely, textiles, it has a very, very wide fluctuation of usage of equipment. In other words, the demand and non-demand for textiles vary widely in that or the result of which would be that on some day we would have no equipment available for anything or anybody, and by the same token in a very few days or even the next day there would be a great number or a considerable number of idle equipment, which is brought about solely by the textile field or the activity within the textile field.

Q. Now could you tell us to what extent the idle equipment in the Nelson fleet fluctuates from day to day? In other words, the minimum number that you might have idle to the maximum number you might have idle on a particular day on a particular period.

A. It would vary from a minimum, of course, of none to where I have in the parking yard at our terminal in

Ellington I have counted as many as 20 idle trailers and [fol. 672] equal number of tractors. It has been very very wide variance. I mean I have gone there and counted up the equipment and found a considerable number, as I said, I have counted as high as 20 idle pieces.

Q: Are you familiar enough with the operations and the motor vehicles of competitors in the textile field, transportation field, to know whether the situation with respect to your company's equipment is comparable to the situation that all carriers engaged in or specializing in hauling textiles are faced with?

Mr. Barrett: I object to the question, Mt. Examiner.

Miss Kelley: Well, first I'm asking him whether or not he is familiar with any of their operations to know.

The Witness: In a general sort of a way I am.

Mr. Barrett: I wish the Examiner would instruct the witness when there's an objection to refrain from answering until the Examiner has ruled on the objection.

Exam. Baumgartner: I thought your objection had been overcome, Mr. Barrett, when Miss Kelley said she was just simply asking him if he knew.

Mr. Barrett: He has already answered. I withdraw the objection at this point.

Exam. Baumgartner: But I will ask you to refrain from answering until the objection of counsel has been ruled on.

The Witness: I understand that fully, sir, and it was not my intent to get the answer in before the objection was [fol. 673] ruled on. During the lull I inadvertently answered it.

By Miss Kelley:

Q. Do you have specific knowledge of the equipment or the use of equipment of any of the competitors in the textile transportation field to make a comparison as to their idle and fully-used equipment during periods or not?

[fol. 674] The Witness: Specifically I do not.

By Miss Kelley:

Q. What determines whether a vehicle will be leased by Nelson to Gilbertville?

A. The determining factor would be our ability to let them have it, as to whether or not we had any available for that purpose.

[fol. 676] By Miss Kelley:

Q. Does Nelson transport traffic destined to a number of consignees at Pittsfield, Mass., or is it limited to one?

A. It's limited to just a few; by that I mean two or three.

Q. Well, is there one principal account among that two or three?

A. Yes, very definitely so, one principal account.

Q. And does the majority of the traffic that you handle—strike that.

What proportion of the traffic originating on Nelson's line moving to Pittsfield moves to one account?

A. Perhaps 70 to 80 per cent.

Q. Do you have both inbound and outbound shipments from that shipper or consignee?

A. Yes, ma'am, we do.

Q. Do you know whether the shipments moving to and from Pittsfield for that one account are collect or prepaid shipments? Take first shipments originating at New York moving to Pittsfield. Are they collect or prepaid?

[fol. 677] Mr. Barrett: I object. I don't see any relevancy whether it's one or the other.

Exam. Baumgartner: I was just about to ask you what special significance has that?

Miss Kelley: I will tie it in, Mr. Examiner.

Mr. Barrett: I withdraw the objection.

Exam. Baumgartner: You may proceed, then.

By Miss Kelley:

Q. Will you answer the question:

A. When that shipment is destined to Pittsfield it is prepaid.

Q. And when the shipment moving from that account to some other point on your line, taking into account that there is an interchange there, I believe, is it prepaid or collect? Southbound movement—withdraw that. On a south-

bound movement, on southbound traffic out of Pittsfield for the one account that you referred to, is it collect or prepaid?

A. That is collect.

Q. As to that account, does the interchange carrier or Nelson do the billing?

A. Nelson does.

Q. Now, is all traffic moving to or from that account in Pittsfield, Mass., interchanged with the Gilbertville Trucking Company?

A. Yes, ma'am, it is.

Q. Do you interchange traffic moving to and from Pittsfield, Mass., with carriers other than Gilbertville?

[fol. 678] A. Yes, ma'am, we do.

Q. And is that routed traffic or unrouted?

A. Both routed and unrouted.

Q. And do you recall the questions of Mr. Mueller yesterday with respect to the division of a revenue on traffic interchanged between Nelson and Gilbertville?

A. I do.

Q. Do you have an arrangement with any other interline carrier which is the same or comparable to that which you have with Gilbertville Trucking Company with respect to interline?

Exam. Baumgartner: With respect to divisions?

Miss Kelley: Pardon me, divisions, thank you, Mr. Examiner.

The Witness: Yes, we do.

By Miss Kelley:

Q. And in what area or how many carriers do you have such an arrangement with?

A. One that I can think of at the moment which operates or connects with us at Philadelphia.

Q. What area does that carrier serve?

A. He services or serves—it's in Pennsylvania. As to the direction I'd have to look at a map, but he services a portion of Pennsylvania which we are not authorized to serve. Forgive me for a minute, I can think of the county.

Q. Is his authority limited to one county?



A. No, no, but I mean that general area in Pennsylvania. No, he is not limited to that one county, but when I think [fol. 679] of that particular county I always think of him serving that general locality.

Q. Well, I don't think it's too material if you can't recall it at the moment. So could you tell us what the division arrangement is with that carrier?

A. With that company it's 65-35, 65 is Nelson's share.

Q. And can you give us the name?

A. Showalter Trucking Company.

Q. Do you have a method of communicating between the various terminals?

A. Yes, we do.

Q. And what is that method?

A. That method is a private telephone wire system between our terminals.

Q. And what terminals does it connect?

A. It connects Ellington, Newton, Woonsocket, Long Island, Philadelphia, and it also connects with our R. A. Byrnes terminal in Bridgeport, New Jersey, and it also connects with Gilbertville's terminal at Gilbertville, Mass.

Q. Is that line shared with Gilbertville?

A. Yes, ma'am, it is.

Q. Is it shared with Byrnes?

A. Yes, ma'am.

Q. Now with respect to telephones, do you know whether or not Gilbertville has a telephone listed at Ellington, [fol. 680] Connecticut that is different than the Nelson telephone, or is it the same?

A. They have their own telephone listing in Ellington.

Q. Do you know anything about telephone listings at Gilbertville, Mass.?

A. They have their own listing there. I'm quite sure. As a matter of fact, they must. We don't have any of that.

Q. What's the arrangement at the other terminals with respect to telephones that you know that Gilbertville might make use of them?

A. I'm quite sure that they have their company listed showing our number, although I have never seen it in a telephone book. And I might add that I looked at this book out here and I could not find it, although they show our



number on their bill of ladings or rather on their pros. I assume that it is listed in respective phone books the same way.

Q. Does the Gilbertville Trucking Company pay the Nelson Company anything for the use of telephones?

A. Yes, ma'am, they do.

Q. How much?

A. The telephone charges on that we have are divided between the three companies, which means that Gilbertville is paying us \$400 a month for telephone service.

Q. I don't know whether or not you'd have this information or not, but insofar as this telephone between terminals is concerned, would you know the use to which [fol. 681] or the proportionate use to which each company puts that phone? I mean my point is can you tell whether one uses it more than another?

A. No, I have no idea. I have no idea as to who would use it more. The fact that Byrnes and Nelson being under dual control, it would almost be a foregone conclusion that they, of course, would use it more than Gilbertville would, but as to the exact amount I'm not sure. I do not know.

Q. As to their connection south of New York, would Gilbertville have any, to your knowledge, any reason for using the telephone?

A. No, ma'am, they would not.

[fol. 682] By Miss Kelley:

Q. Going back to the testimony that you gave me with respect to your interchange with Showalter in Pennsylvania, do you know which company does the billing on traffic interchanged with Showalter?

A. Nelson does.

[fol. 683] Q. Do any other carriers share the terminals other than Nelson and Gilbertville at Woonsocket, Newton, or Ellington, Connecticut?

A. Of those three points none are shared—or rather, let me put it this way: No one other than Gilbertville shares terminal space in Ellington and Newton. In Woonsocket, Blue Line Express shares that facility.

Exam. Baumgartner: Together with?

The Witness: Together with Gilbertville and Nelson.

[fol. 684] Mr. Barrett: Mr. Examiner, off the record for a minute.

Exam. Baumgartner: Off the record.

(Discussion off the record.)

Exam. Baumgartner: Let's get back on the record now.

By Miss Kelley:

Q. Does Blue Line have a telephone listing at Woonsocket, Rhode Island to your knowledge?

A. I do not know.

Q. Do you know whether or not Nelson takes calls or renders any service for them?

A. Yes, we take all of Blue Line's calls at our Woonsocket terminal. Whether it's actually listed in the book, I have no knowledge.

Q. Do you know whether or not Blue Line has an employee stationed at Woonsocket in the terminal?

A. I have been over there many times and many times there have been Blue Line men there. Whether they are specifically stationed there, I don't know.

Q. You made reference to the Byrnes transaction in reply to a question of Mr. Barrett, and prior to negotiating the Byrnes transaction had Nelson negotiated another purchase which was the subject of an application before the Interstate Commerce Commission?

A. Yes, we had, and the other company involved, its name was White's; I believe it was White's Express, Incorporated of New Jersey.

[fol. 685] Q. Do you know the docket number in reference to the case?

A. No, I do not.

Q. Do you recall whether it would have been L. Nelson Purchase of White's Express?

A. That sounds about the way it was written.

Q. What action—

Mr. Barrett: How do you spell that transferor?

Miss Kelley: White's Express.

By Miss Kelley:

Q. What action was taken by the Interstate Commerce Commission on that application?

A. That was denied.

Q. And can you tell us whether the area involved in the proposed White purchase was the same or different than the area involved in the Byrnes purchase?

A. Generally speaking it was pretty much the same, although as I recall it went considerably further south than the Byrnes certificate covers.

Miss Kelley: I have no further questions.

Exam. Baumgartner: Mr. Mueller?

Recross examination.

By Mr. Mueller:

Q. I'd like to ask a couple of questions regarding this Showalter interchange, Mr. Chilberg. Does Showalter's mileage from the interchange point, which I understood you to say would be Philadelphia—

A. Correct.

[fol. 686] Q. —vary under this 65-35 arrangement which you have?

A. Yes, it does in that there are a number of miles in the area that he covers.

Q. And would those miles be similarly distant from Philadelphia or equal distance from Philadelphia, or would the distances vary?

A. Frankly, I have never checked the distance. I do know they vary, but again in that case it was an agreement between us as to a stabilized percentage of the revenue.

Q. You can't tell us anything about how long the haul is Showalter performs?

A. No, I can't. As a matter of fact, I was trying very hard to think of that name of the area I was referring to this morning, but it is in the Pennsylvania area. It seems like it's northern, north of Philadelphia.

Q. Whose equipment would be used in those interchanges? That is to say, is the interchange performed by means of leased equipment?

A. No, it's performed by means of interchange of trailer.

and by that I mean in cases of full load—or it would be handled interchange of trailer; less than truckload would be transferred directly to his unit.

Q. Would that be transferred on your dock or his?

A. That's correct.

Q. On your dock?

[fol. 687] A. That's correct.

Q. And you said that Nelson did the billing?

A. That is right.

Mr. Mueller: That is all, Mr. Examiner.

Exam. Baumgartner: May I ask just one question:

Are those shipments handled with Showalter prepaid shipments?

The Witness: When they are traveling northbound they would be prepaid; when they are traveling southbound they would be collect. In other words, this company pays the freight.

Exam. Baumgartner: The consignee pays the freight?

The Witness: On southbound.

Exam. Baumgartner: On southbound he pays the freight, and northbound he also pays, the same man?

The Witness: The same man pays.

Exam. Baumgartner: The same shipper pays the freight in both directions?

The Witness: Correct.

By Mr. Barrett:

Q. On redirect examination there was some conversation about Mr. Kashady. Do you recall that?

A. I do recall that, yes.

Q. Do you know how long he has been employed by Gilbertville?

A. I would estimate it to be approximately two years.

Q. Was he ever employed by Nelson?

A. Yes, he was.

[fol. 688] Q. Prior to that two years ago?

A. Correct.

Q. In what capacity was he employed in Nelson's?

A. He was employed as a driver.

Q. Do you know how long he was with Nelson as a driver?

A. Definitely, as to a definite time, I don't.

Q. For several years or more?

A. Yes, it was several years or more.

Q. And by about approximately two years ago, you're bringing it back to sometime in the middle of 1954?

A. Or thereabouts, yes.

Q. Now in relation to shippers for whom your company provides service at Pittsfield, there were comparisons between one principal account there as against another two or three. Do you recall that?

A. Yes, sir.

Q. Approximately percentagewise as against your company's gross revenue for any given period, we'll say the year of 1955, which is approximately \$924,000, how much of that is involved for that one principal account in Pittsfield?

A. Unless I am forced to say, Mr. Barrett, I would rather not answer because I think by my answering that information, it could be determined who that account is.

Miss Kelley: Mr. Examiner, may I inquire if Mr. Chilberg's position is that it's confidential information that [fol. 689] would affect his company.

The Witness: That's exactly right.

Exam. Baumgartner: Do you insist on that answer, Mr. Barrett?

Mr. Barrett: Well, obviously I don't desire to have the witness disclose any of the company's confidential information. However, on redirect examination there were quite a few comparisons made between relationship of traffic handled for this one shipper that's identified as the principal account and somebody else. I will let the record stand leaving any comparisons meaningless. We don't have anything to base it on. It could have been a dollar's worth of business a year; it could be a hundred thousand. We don't know; but if the witness has some other way he could indicate it, I will ask him.

By Mr. Barrett:

Q. Do you have any other way you could indicate some relationship of volume of traffic for this Pittsfield account?

A. No, I don't.

Q. By number of times served a week or month, would that or could you give us that?

A. It's virtually a daily operation.

Q. At the present time is the traffic to and from this Pittsfield account being interchanged with Gilbertville?

A. Yes, it is.

Q. Is the traffic to or from the two or three other ship-[fol. 690] pers in Pittsfield interchanged with Gilbertville?

A. Not always.

Q. Predominantly?

A. No, I wouldn't say predominantly. I wouldn't be able to say whether it would be predominantly or not. I know that we transfer considerable freight destined to the Pittsfield area with other carriers.

Q. Will you identify a couple of representative ones?

A. Carriers?

Q. Yes.

A. Salem Brothers, primarily Salem Brothers.

Q. Any others?

A. We have on occasion transferred freight for that area to J. J. Sullivan. That is all I can recall at the moment.

Q. Now the traffic to the one principal account that you have referred to, is that traffic routed or unrouted, if you know?

A. That, I believe, is primarily routed.

Q. And shipped by your line, I presume?

A. Yes, sir.

Q. Is the traffic you interchange with other carriers, particularly Salem Brothers and J. J. Sullivan, routed or unrouted?

A. Both routed and unrouted.

Q. On any routed traffic are either of those carriers, Salem Brothers or—strike that.

[fol. 691] On any of those other Pittsfield movements, does the shipping routing call for either Sullivan or Salem Brothers?

A. You mean either or?

Q. I mean either one of them.

A. I see. It would show; if it was going to be routed Salem, it would show Salem.



Q. Do you know whether or not any does show Salem?

A. Oh, yes.

Q. Do you know whether or not some traffic shows Sullivan?

A. Sullivan, that's correct.

Q. So then your company ships that way when their name is shown on the shipper's routing, is that correct, or the consignee's routing, is that correct?

A. I don't think I follow you.

Q. If their name is shown, either Sullivan or Salem, and your company has the freight, would it go on the shipper's routing and turn it over?

A. Every time.

Q. Now you have drawn some comparisons between the interline arrangements you have with this Showalter as far as division of revenue is concerned and that which you have with Gilbertville, correct?

A. Correct.

Q. What's the normal practice of your company as far as division of revenue is concerned with interline carriers? [fol. 692] A. The normal practice is a division of the revenue on a mileage basis by the two carriers carrying the freight.

Q. So the record will be clear on that, assuming that you haul the freight 200 miles and the other carrier 200 miles, that would be 50-50?

A. Correct.

Q. And proportionately when over or under for each of you the division of rate would increase or decrease?

A. That is right.

Q. Now you testified regarding some of the telephone bill that was paid by Gilbertville for the use of the phones.

A. I did.

Q. And that was \$400 that was their share.

A. That is right.

Q. Per month.

A. Correct.

Q. Do you know what the total telephone bill per month is?

A. The total telephone bill is in the vicinity of \$1100.



Mr. Mueller: For clarification, for what period is that?  
The Witness: Per month.

By Mr. Barrett:

Q. And I presume that covers all of the terminals collectively including Philadelphia and New Jersey?

A. You mean the \$1100?

Q. Yes.

A. That's right.

[fol. 698] Exam. Baumgartner: There being no objection, Exhibit No. 24 is accepted into evidence.

(The document heretofore marked as Applicant's Exhibit No. 24, Witness Chilberg, was received in evidence.)

Exam. Baumgartner: The witness was excused subject to further call, I think, by Miss Kelley, or by any of the parties for that matter.

We'll take a recess until 2:25.

(Short recess.)

Exam. Baumgartner: On the record.

KENNETH A. H. NELSON was sworn and testified as follows:

Direct examination.

By Miss Kelley:

Q. May we have your name, address.

A. Kenneth A. H. Nelson, 32 Earl Street, Manchester, Connecticut.

Q. And are you the stockholder of the Gilbertville Trucking Company who entered into the agreement which is the subject of this hearing?

A. Yes.

Q. Are you the holder of all the stock of Gilbertville?

[fol. 699] A. I control all 100 shares, all 100 shares.

Q. And so far as Mr. Kashady and Mrs. Nelson, your wife, are concerned, did they pay any consideration for the 24 shares each which they hold?

A. No.

Q. Now under the laws of what state was Gilbertville Trucking Company organized?

A. Massachusetts.

Q. Does it have a place of business in Massachusetts?

A. Yes.

Q. And what's the street address and the town?

A. Gilbertville Trucking Company, Incorporated, Hardwick Road, Gilbertville, Mass.

Q. Is that the address that's recorded with the Corporation Department of Massachusetts?

A. Yes, I believe so.

Q. Is that the mailing address, legal address of the company?

A. That's everything.

Q. Where are the principal transportation records, for example, waybills and the bookkeeping records of the company, maintained?

A. At Ellington, Connecticut.

Q. And how long have they been at Ellington?

A. Since approximately the middle of 1954.

Q. Prior to that date where had that work been done?  
[fol. 700] A. Gilbertville, Mass.

Q. Why do you continue the mailing address of the Gilbertville Trucking Company as Gilbertville, Mass., if your records and your office work is done in Connecticut?

A. Well, I want to preserve the corporate identity of the company. It has real value from a business standpoint.

Q. What do you mean by that?

A. Well, the people in the area recognize the Gilbertville Trucking Company as more or less being their company. It's identified in the locale.

Q. Can you explain why or what effect a different address would have on the Connecticut address for example?

A. It would be silly in the first place to call it the Gilbertville Trucking Company, Ellington, Connecticut, and it would confuse people and it might result in loss of business.

Q. And is that why you have maintained the mail address, so forth, at Gilbertville, Mass.?

A. Basically that's the reason.

Q. As a Massachusetts corporation where are the corporate records, that would be the bylaws and seals, the seal and so forth, kept?

A. As a general rule they are kept at the office of my attorney, who, incidentally, is Secretary-Clerk at Springfield. His name is Arthur Paroshinsky.

Exam. Baumgartner: Where is he?  
[fol. 701] The Witness: He's in Springfield, right on the main street.

By Miss Kelley:

Q. Do you know whether or not it is a requirement of a Massachusetts corporation that such records be maintained in Massachusetts?

A. You mean the corporate records?

Q. Yes, the bylaws and certificates.

A. I believe so.

Q. Did you consult with any representative of the Interstate Commerce Commission with reference to changing of the office records of Gilbertville Trucking Company to Ellington, Connecticut?

A. Yes, I did.

Q. Who did you consult?

A. I consulted with Mr. Dean Noble of the—I don't know what district it is, but he is located at Hartford, Connecticut.

Exam. Baumgartner: You mean by changing the records, changing the location of the transportation records and bookkeeping books from Gilbertville to Ellington?

The Witness: That is correct.

Miss Kelley: Thank you, Mr. Examiner.

By Miss Kelley:

Q. Will you describe the facilities maintained at Gilbertville, Mass., by the Gilbertville Trucking Company?

A. Yes. It's a steel building we are located in. There's storage facilities there, limited storage facilities, and a good-sized yard.

[fol. 702] Mr. Barrett: Good-sized what?

The Witness: Good-sized yard, y-a-r-d.

Mr. Barrett: Thank you.

By Miss Kelley:

Q. And you have a representative of the company at Gilbertville?

A. Yes, I do.

Q. Have you heard the testimony as to location of the other terminals of the Gilbertville Trucking Company referred to in Mr. Solomon's testimony and Mr. Chilberg's testimony?

A. Yes.

Q. Have the terminals been correctly described on this record?

A. I believe they have.

Q. And have you prepared an exhibit showing the equipment operated by the Gilbertville Trucking Company as of July 31, 1956?

A. I didn't get that question.

Q. Have you prepared an exhibit showing the equipment of Gilbertville?

A. I have caused to be prepared an exhibit.

Miss Kelley: Mr. Examiner, I offer the exhibit headed, "Gilbertville Trucking Company, Incorporated, Equipment Operated by Gilbertville as of July 31, 1956."

Exam. Baumgartner: That will be Exhibit No. 25 for identification.

(The document above referred to as Applicant's Exhibit No. 25, Witness Nelson, was marked for identification.)

[fol. 703] By Miss Kelley:

Q. Do you have equipment stationed at your various terminals?

A. Yes, I do.

Q. And where is the bulk of the equipment garaged or headquartered?

A. Well, there is equipment located at each one of the terminals. I'd have to consult with notes in order to give it to you.

Q. Well, I don't think that's necessary. But is the majority of it—do you have a limited amount of equipment at each terminal and the majority at one particular place or two places?

A. Yes.

Q. Can you tell us where the majority is?

A. The majority is probably at Rockville—we'd better straighten that Rockville-Ellington business out now. I think it's been made clear that all my life I have referred to Rockville as Ellington. We get our mail at Rockville, and if you tell people that you live in Ellington they don't know what you're talking about. Rockville is a city.

Exam. Baumgartner: For our purpose Rockville and Ellington are the same.

The Witness: Good enough for me.

Exam. Baumgartner: When you say you maintain the majority of your equipment at Ellington, is that what you mean, a majority of it?

[fol. 704] The Witness: That's right.

Exam. Baumgartner: Or the larger portion in comparison?

The Witness: Yes, that's right.

Exam. Baumgartner: You mean you maintain over 50 per cent of it at Ellington?

The Witness: No, I wouldn't say that.

Exam. Baumgartner: That's what majority means, doesn't it?

By Miss Kelley:

Q. Do you want to look at your notes and break it down and tell us how many units are stationed at each terminal?

A. Yes. Should I proceed?

Q. Yes.

A. At Rockville there are 4 straight trucks and 6 tractors and one trailer. You want me to give you the whole breakdown now?

Q. Yes.

A. At Gilbertville there's one straight truck and 2 tractors and 2 trailers. At Woonsocket, Rhode Island there are three straight trucks and 2 tractors and 2 trailers. At New-

ton, Massachusetts, there are 2 straight trucks, 2 tractors and 2 trailers. At Monson, Massachusetts, we maintain one trailer. There is no terminal there, but we have a trailer spotted there. At New York we have 5 straight trucks.

Exam. Baumgartner: How many tractors did you say at Gilbertville?

The Witness: At Gilbertville, tractors, one.  
[fol. 705]. Exam. Baumgartner: One?

The Witness: Wait a minute, hold it now. I meant to say one straight and 2 tractors.

Exam. Baumgartner: 2 tractors and 2 trailers?

The Witness: Yes, that's right.

By Miss Kelley:

Q. Now will you refer to a copy of the application. Does Exhibit B attached thereto describe the operating authority of the Gilbertville Trucking Company?

A. Yes, it looks just like it.

Exam. Baumgartner: Exhibit B?

Miss Kelley: Yes, sir.

By Miss Kelley:

Q. Now will you tell us generally what type of service your company renders under your certificate. That is in point of time and particular areas within the certificate operations are conducted.

A. Well, it's basically an irregular route operation. We go when we are called. When a customer calls, we make the pick-up.

Q. As far as service is concerned, do you give same-day, overnight, or what?

A. Oh, we give overnight service.

Q. Do you render service, for example, between Massachusetts points and points in Rhode Island?

A. Massachusetts points and points in Rhode Island?

Q. Yes.

A. Yes.

[fol. 706] Q. As well as between Massachusetts points and points in Connecticut?

A. That's right.

Q. Now in all instances would service between points in Massachusetts and points in Rhode Island or points in Connecticut and points in Massachusetts be an overnight service?

A. Yes, it would.

Q. Now do you interchange traffic?

A. What was that question?

Q. Does your company interchange traffic?

A. Yes, it does.

Q. And approximately how many carriers do you interchange with?

A. Well, I checked it and we interchange with about 50 carriers.

Q. Can you break the 50 carriers down and tell us approximately how many you interchange with, say at New York, how many at Massachusetts, then Rhode Island, or Connecticut points?

A. Well, I would say that I didn't really break it down into that category. I'd say it's about even-STEVEN, 25 in New York and 25 up on this end, in Massachusetts end.

Q. Among those carriers do you interchange with the L. Nelson & Sons?

A. Yes, I do.

Q. Can you tell us what per cent of the dollar value or the volume of tonnage of the Gilbertville Trucking Company [fol. 707] is represented by the interchange with L. Nelson & Sons?

A. I would say it would run around 5 per cent probably.

Exam. Baumgartner: 5 per cent?

The Witness: 5 per cent of business I do.

Exam. Baumgartner: Tonnagewise?

The Witness: No, I think dollar, speaking in terms of dollars.

By Miss Kelley:

Q. Do you also interchange traffic with the R. A. Byrnes?

A. Yes, I do.



Q. And where is the interchange with Byrnes effected?

A. At New York, New York.

Q. And what percentage of your total traffic is interchanged with Byrnes?

A. Well, now, to be perfectly honest with you I didn't really check it, but I would estimate, and it would be fairly close anyway, oh, perhaps 4 to 5 per cent, maybe, similar to the traffic that—business that we do with Nelson, maybe a little less or more one way or the other.

Mr. Barrett: Once again you're talking about revenue?

The Witness: Oh, yes, talking about dollars.

By Miss Kelley:

Q. Now did you hear Mr. Chilberg's testimony as to the 60-40 arrangement between Gilbertville and Nelson for the split of the revenue?

A. Yes.

[fol. 708] Q. Do you have a similar arrangement with other carriers?

A. Yes; I do. I have similar arrangements with three other carriers that I can think of offhand. You mean now—we are speaking about a fixed percentage division?

Q. That's right.

A. Yes. I have that arrangement with three other carriers that I can think of offhand.

Q. And what arrangement do you have with the balance of the carriers that you interchange traffic with?

A. It's on a pro rata basis which means in effect that if a carrier hauls 50 miles and you haul 50 miles, you split it down the middle.

Q. Why do you have a pro rata arrangement per shipment with some carriers and then you have this flat arrangement with other carriers?

A. Well, it depends a whole lot on this situation. Now a strict north-south movement—strike north-south movement—is the pro rata arrangement is the best; but if the movement is, there is any back-haul involved in the movement, it doesn't necessarily work out to the best advantage.

Q. I'm sorry; I can't follow you on that. Could you break it down a little different as to what you mean by a north-

south. Does the frequency with which you interchange with a carrier have something to do with it?

A. Yes, that has a lot to do with it too. If you're inter- [fol. 709] changing very frequently it does take time and money to pro rate a shipment as against a fixed split where you just simply know what the division of revenue is going to be right then and there without consulting charts and so on.

Q. Now is your interchange with Nelson or Gilbertville's interchange with Nelson any different than your interchange with other carriers?

A. Would you give me that question again.

Q. Is the physical interchanging of the freight between Nelson and Gilbertville any different than your interchange of freight between other carriers and Gilbertville?

A. No.

Q. Now, does Exhibit B-7 attached to the application represent shipments transported by your company, Gilbertville Trucking Company, during the period of March and April of 1955?

A. Say that again, please.

Miss Kelley: Can we have it read, please.

(Question read.)

The Witness: Yes.

By Miss Kelley:

Q. I should say in that, the month of March, 1955 and the month of April, 1955. Do you know what per cent of the shipments handled during March of 1955 are reflected in this exhibit?

A. As I recollect it's almost 100 per cent.

Q. Were duplications eliminated in preparation of the exhibit?

[fol. 710] A. That's right, that's true.

Q. With respect to at least elimination of at least some duplications, I looked down here and I saw a duplication. Do you recall approximately how many waybills for the month were eliminated, either in numbers or percentage, as to those we used?

A. Yes. Now that you put it that way I do recall that approximately a quarter of the batch that is represented by this period was eliminated because of duplications.

Q. And does that apply to May as well as March?

A. Yes, it would apply to both months.

Exam. Baumgartner: When you refer to May of 1955, as also shown in the same exhibit?

Miss Kelley: That's correct.

Mr. Barrett: Mr. Examiner, up until this time I have only heard that that exhibit covers March and April.

Exam. Baumgartner: Well, the exhibit itself says March and May.

Miss Kelley: I'm sorry; it's the fifth month and that would be March and May.

Mr. Mueller: While we are inquiring, the copy that I have had in the second column of Page 1 under the heading date just the figure 195: Should that be 1955?

Miss Kelley: That's correct.

By Miss Kelley:

Q. Now did you cause to be prepared an exhibit showing representative shipments transported by Gilbertville [fol. 711] Trucking Company during the two-week period between May 1, 1956 and May—although there are four shipments shown for May 14 to May 17, actually it covers the period from May 1 to May 11, doesn't it?

A. Yes, I caused to have this prepared.

Miss Kelley: I offer this for identification.

Exam. Baumgartner: That will be marked Applicant's Exhibit No. 26 for identification.)

(The document above referred to as Applicant's Exhibit No. 26, Witness Nelson, was marked for identification.)

By Miss Kelley:

Q. Will you tell us whether or not in your opinion Exhibit B-7 plus Exhibit 26 as introduced is fairly representative of the operations of your company during the past year or two years?

A. You mean—the B-7 was the one that was—

Q. Attached to the application.

A. Yes.

Q. Let me revise that and say in your opinion is Exhibit B-7 plus Exhibit 24—

Exam. Baumgartner: 26.

By Miss Kelley:

Q. —26, excuse me, fairly representative of the operations of your company during the entire period from March 1 of 1955 through or up to the present time?

A. Yes. Excuse me for a second. Now what's that last exhibit? It's marked wrong here.

[fol. 712] Q. 26. Do you have the underlying documents from which these two exhibits were prepared in the hearing room?

A. Yes, I have.

Miss Kelley: I was going to ask if the witness would please refrain from answering until I had completed my question because it's very difficult. My question was whether or not he had the underlying documents from which these exhibits were prepared present in the hearing room.

The Witness: Yes, I do have those.

By Miss Kelley:

Q. Do you know what per cent Exhibit 26 represents of the entire shipments during the period May 1 through May 11, 1956?

A. Yes. There again about 25 per cent was eliminated because of duplication.

Mr. Barrett: Mr. Examiner, may I ask a question for clarification while we are on those percentages?

Miss Kelley: Yes.

Mr. Barrett: Does that mean that approximately 75 per cent of the shipments are shown in the respective exhibits?

Miss Kelley: Yes.

The Witness: Yes.

Exam. Baumgartner: 75 per cent of the shipments are shown?

The Witness: Yes.

Exam. Baumgartner: I'm confused. Where is the duplication with respect to the 25 per cent?

[fol. 713] The Witness: It would be actually the same type of shipment moving between the same points.

Exam. Baumgartner: But between different shippers?

The Witness: No, no, same thing.

Miss Kelley: Mr. Examiner, in preparing the exhibit what we attempted to do, and we didn't eliminate them all as I see, but what we attempted to do, shipments of the same commodity moving between the same points on the same day, regardless of the shipper, we tried to eliminate them or in some instances if it seemed there were a great many shipments regardless of commodity moving between the same two points, but we just picked a representative number of them. Frankly, we pulled them out until we got a little tired as far as that point was concerned.

Exam. Baumgartner: These documents show 75 per cent of the shipments that actually moved?

Miss Kelley: Yes.

Exam. Baumgartner: Approximately?

Miss Kelley: Yes, I think that's approximately right.

By Miss Kelley:

Q. Now, does Gilbertville hold itself out to transport traffic as tended to it?

A. Yes, indeed.

Q. Does it advertise its business?

A. Yes, it does.

Q. What mediums do you use for advertising?

A. Well, we use several. These are what I can think of [fol. 714] offhand: In the telephone book; in the Motor Carrier Guide; we use blotters; we use pocket protectors that I've got on here now.

Q. Those are the principal methods?

A. Principally speaking, yes.

Q. How many employees does Gilbertville have?

A. 53.

Q. And can you break that down into drivers, office help, etc.?

A. Yes, I'd have to consult my memorandum. Is that permissible?

Q. Yes. You don't have to request permission. .

A. Oh, wait a minute, now. I said 53. I should have said 53 drivers, 4 terminal managers, 3 dispatchers, and 10 office people, and one mechanic, which makes a total of 71. I think that's right, 71.

Q. Where are the terminal managers located?

A. The terminal managers are located in New York, Gilbertville, Woonsocket, and Newton.

Q. Where are the dispatchers employed?

A. Rockville and New York.

Q. Is it your understanding that the employees are to be retained if this transaction is approved by the Commission?

A. Yes.

Q. Now I note in your financial statement that is shown that you have acquired some land in Springfield.

A. That is right.

[fol. 715] Q. Has Gilbertville Trucking Company made any use of that land up to the present time?

A. No, not at present.

Q. Did you participate in the conferences involving the economies which are anticipated would result from this transaction?

A. Yes.

Q. And did you assist in the furnishing of the supplemental data which was incorporated into Exhibit 11 showing economies?

A. I don't have Exhibit 11. Yes.

Q. Do you have anything to add to the testimony which has already been offered as to any other economies that might be anticipated if these operations are merged?

A. I can't think of any offhand.

Q. What is your understanding as to the agreement to exchange the Gilbertville stock for stock of Nelson?

A. Would you repeat that.

Q. What is your understanding as to the provisions of the agreement between the L. Nelson & Sons Company and yourself for the conversion or substitution of the stock of Gilbertville for the stock of Nelson if this transaction is approved?



A. Well, I don't think I quite get that. Do you want me to explain it?

Q. Let me withdraw that. Will you explain your understanding of the agreement between the parties in this transaction?

[fol. 716] A. Yes. The agreement is based on the book values of both companies, and the ratio between my company and their company is the basis for the ultimate—or at least—wait a minute now. Let's get this straight. The book value ratio at the time that this thing is wound up.

Q. If approved by the Commission?

A. If approved by the Commission. The book value ratio at the time that this thing is wound up will be the basis for the share that I will get in the Nelson Company as it were.

Q. Do you understand—

A. I hope I made that clear.

Q. Do you understand that the computation will be made on the basis of book value of Nelson also?

A. That's right.

Q. Now, will you tell us what led up to the negotiating of this transaction. I mean what caused you to negotiate this transaction?

A. Yes. Mr. Solomon, as you know, is my accountant, and he spoke to me on several occasions relative to the possibility of merging the Gilbertville Company with the Nelson Company. He happens to be the accountant for the Nelson Company as well. I have actually had, since I took over the business, difficulty with capital. I have been short on capital ever since I have been operating the company, and as you know capital is a big factor in operating a transportation company.

[fol. 718] The Witness: Yes. The possibility that leasing may no longer be permitted by the Commission on a trip basis, that is on a sort of a temporary basis, has been a very big factor. I might say in the way of explanation that after having talked with Mr. Solomon, and upon his suggestion I talked with my counsel who suggested to me that I purchase equipment in the light of the fact that there was a possibility that these leasing rules may be revised so that we won't be permitted to lease equipment.



Exam. Baumgartner: That you won't be permitted to lease?

The Witness: On a temporary basis or on a trip basis.

By Miss Kelley:

Q. And did you buy equipment as you say, to eliminate—did you buy additional equipment on my recommendation?

A. I bought as much equipment as I could stand financially. I purchased all I could swing, let's say.

[fol. 719] Q. If this transaction is not approved, do you have a plan for the future with respect to equipment? I mean leasing equipment as against purchasing equipment?

A. No, frankly, I don't.

Q. Will you tell us what you consider would be the benefits to the shipping public if this transaction is approved?

Mr. Barrett: Before he answers that question, may I have the question read?

Exam. Baumgartner: Will you please read the question?

(Question read.)

Mr. Barrett: I object on the grounds that that's a conclusion of the Commission to arrive at.

Exam. Baumgartner: My ruling will be as it was before, that the witness may answer.

The Witness: The big factor I feel that the shipping public will gain will be, number one, I think they will get a financially healthier company out of it; they will get better service; their claims will be settled faster; and in general it will be a sounder company all the way around.

Miss Kelley: I release Mr. Nelson for cross-examination.

Exam. Baumgartner: Mr. Mueller, you may proceed on cross-examination.

Cross examination.

By Mr. Mueller:

Q. Mr. Nelson, you stated, as I understood you, that you control all 100 shares of the stock of the Gilbertville [fol. 720] Company. I would like to have you explain just

what you mean by that in the light of the fact that exhibits and testimony heretofore offered indicate that certain shares have been issued to your wife and to a man by the name of Kashady.

A. Right. Yes, I control the entire 100 shares. First of all, the share of stock that is held by Mr. Paroshinsky, my attorney, is simply a qualifying share. The 24 shares that John Kashady holds is actually in the same token qualifying shares, and I can explain it in this fashion: That Mr. Kashady was my personal representative in the Gilbertville area; he had to deal with all of the problems in connection with the company, and in order that his decisions and his instructions and orders in contact with the labor unions and so on had any weight, I wanted him to hold stock for prestige, and that's exactly why it was done.

Q. Did you ever issue a stock certificate to him, or did he ever have a stock certificate in his possession?

A. Yes, he did.

Q. Does he have it in his possession now?

A. No, he doesn't.

Q. Who does?

A. I do.

Q. Do you also hold possession of the certificate issued to the attorney, Paroshinsky?

[fol. 721] A. No, I don't.

Q. What about your wife?

A. Well—

Q. What about your wife's certificate?

A. Those 24 certificates are available any time I want them, yes.

Q. You do control them all?

A. Yes, indeed.

Exam. Baumgartner: Now wait a minute. I'm a little offtrack here. There's 100 shares outstanding of which Paroshinsky has one, Kashady has 24, and your wife has how many?

The Witness: 24.

Exam. Baumgartner: 24 also?

The Witness: That's right.

Exam. Baumgartner: That would be 49, and the other 51 are in your name?

The Witness: Yes.

By Mr. Mueller:

Q. Whatever the arrangements are, they are such that you're able to deliver 100 shares?

A. That is right.

Q. To the Nelson interests in the event this transaction is approved?

A. That is right.

Q. Could you give us a little more adequate description of these premises at Gilbertville? You said it was a steel [fol. 722] building, I believe.

A. Yes.

Exam. Baumgartner: Mr. Mueller, do you mind if I inject a question at this point concerning shares while we are on the subject?

Mr. Mueller: No, sir.

Exam. Baumgartner: Do you mind?

Miss Kelley: I don't have any objection, no.

Exam. Baumgartner: If this transaction is consummated, will any shares of the Nelson Company be issued to Mr. Kashady for the 24 that stand in his name?

The Witness: No.

Exam. Baumgartner: Will Nelson Company shares be issued to your wife for the 24 shares in her name?

The Witness: No.

Exam. Baumgartner: And the same is true of the one share held by Mr. Paroshinsky?

The Witness: That's correct.

Exam. Baumgartner: In other words, I take it you're the owner of the whole 100 shares?

The Witness: That's right.

Exam. Baumgartner: And you will receive all of the shares of the Nelson Company that are issued in exchange for the 100 shares of Gilbertville?

The Witness: That's correct; that's absolutely right.

[fol. 723] By Mr. Mueller:

Q. Does the stock record book of the company reflect your—perhaps I should call it “beneficial” interest in the

shares held in the name of your wife, Kashady, and Paroshinsky?

A. I don't know what you're talking about. I don't quite understand what you're driving at to tell you the truth.

Q. Is there any indication in the books of the company, the records of the company, which would reveal your right to the possession of the stock held by these other individuals?

A. The records indicate that I hold 51 shares and that John Kashady holds 24, my wife holds 24 and Paroshinsky holds the other.

Exam. Baumgartner: Do the stock record books in any manner indicate that the 49 shares issued to these other folks are being held in trust for you?

The Witness: Well, actually they have been signed over to me.

Exam. Baumgartner: Subsequent to their issuance to these other holders they were then assigned to you, is that right?

The Witness: That's right.

Exam. Baumgartner: But the assignment has not been reflected upon the books of the corporation?

The Witness: That is correct.

Mr. Mueller: Has the Examiner concluded?

Exam. Baumgartner: I'm through for the time being.  
[fol. 724] Excuse me, and thank you, sir.

By Mr. Mueller:

Q. We were discussing the premises at Gilbertville. What sort of building is this?

A. It's a corrugated steel building.

Q. Was it at sometime used for some other purpose, if you know?

A. Yes, I believe an airport.

Q. And would that be the Ware Airport that we are discussing here?

A. Beats me what airport it is. I don't know. I rent it from a fellow by the name of Edgar Rickard.

Q. Is this a location out in the country so to speak?

A. It's out in the sticks.

Q. Are there other things on Hardwick Road?

A. It's out in the sticks.

Q. Homes?

Miss Kelley: I object. What's the materiality of whether there are homes or not?

The Witness: It's out in the sticks. There's no question about that.

Exam. Baumgartner: Meaning it's out in the country somewhere?

The Witness: That's about the size of it. We call it the sticks. When you get that far out in the country we call it the sticks.

[fol. 725] By Mr. Mueller:

Q. You have referred to the locality of this terminal at Gilbertville as being the company's post office or mailing address, is that correct?

A. That's right, it's our main office for all practical purposes.

Q. Do you also have a post office box somewhere which you use for business purposes?

A. Right in the center of town is the post office and that's where we get our mail. We fetch it right from the post office.

Q. And that would be the Gilbertville Post Office?

A. That's right.

Q. Now do I correctly understand you that the corporation's certificate of incorporation and its bylaws are not kept at the premises at Ellington or Rockville, Connecticut, but they are kept at some other point?

A. Yes. They are kept ordinarily at my attorney's office in Springfield, and I gave you his name before. Now, let me qualify that in saying this: I have had the minute book down to Ellington on occasion for stenographic reasons, but that's all. It's basically kept in Springfield at my attorney's office.

[fol. 726]

By Mr. Mueller:

Q. I do not recall whether or not you told us, Mr. Nelson, the source of the figures shown on Exhibit No. 25 that is the equipment operated by Gilbertville as of July 31, 1955.

Exam. Baumgartner: 1956, isn't it?

Mr. Mueller: 1956, I believe it was, yes.

The Witness: What was your question.

By Mr. Mueller:

Q. The source of those figures.

A. They're my figures.

Q. Taken from the corporation records?

A. Yes, indeed.

Q. And does the corporation in the Ellington office maintain so-called equipment lists?

A. Yes, we maintain equipment lists and all information pertaining to the equipment.

[fol. 728] Q. Do you have in the office of the Gilbertville Trucking Company, Ellington, Connecticut, any list of equipment which is available to the Gilbertville Trucking Company for use in addition to the list of equipment which you have shown here on Exhibit No. 25.

[fol. 729] The Witness: Well, we do, Gilbertville Trucking Company does have a list of vehicles that are owned by the L. Nelson & Sons Transportation Company, and that list contains the information pertaining to the engine number and so on.

By Mr. Mueller:

Q. And if you know whether or not that list embraces all of the motor vehicle equipment owned and operated by the L. Nelson & Sons Transportation Company?

A. I'm pretty sure that it does, yes.

Q. Now, in conjunction with your testimony concerning the locality of the equipment owned by Gilbertville Trucking Company, you mentioned one trailer, Monson, Massa-

chusetts. Will you tell us exactly where in Monson this vehicle is stationed or kept?

A. Well, I will tell you. I don't know the street, frankly, but I will tell you by landmarks. You go into Monson until you come to the watering trough and you turn right and go down the street, and when you see a trailer that's it.

Q. Is this a parking lot or on the street?

[fol. 730] A. It's a parking lot. It's on an open lot, just an open lot.

Exam. Baumgartner: Vacant lot?

The Witness: Vacant lot is right.

By Mr. Mueller:

Q. Is there any other building?

A. It's a vacant lot.

Q. You have no office there?

A. No office there.

Q. You maintain no records there?

A. We maintain no records there.

Q. No employees are stationed there?

A. No, there are no employees stationed there excepting when they're transferring freight.

Q. Is this a community, a place called Monson?

A. I assume it is.

Q. Is it east or west of a place called Palmer, if you know?

A. South.

Q. Directly south?

A. Well, I'd say south. I'd say south from my recollection.

Q. Would that be north or south of Route 20?

A. Well, it would be—Route 20, where does that go through?

Q. I have no objection to your looking at a map.

A. Route 20 goes through Palmer.

Exam. Baumgartner: Mr. Mueller says he doesn't object to your looking at a map.

The Witness: Monson, Mass., is south of Route 20. May-  
[fol. 731] be southeast to a slight extent, but basically south.



Q. Is this particular lot north or south of Route 20?

A. Well, if Monson is south of it it's got to be.

Q. It has to be what?

A. It has to be south of Route 20.

Q. Is it on a street or route?

Miss Kelley: I object. I can't see the materiality of stressing the point, Mr. Examiner.

Exam. Baumgartner: Off the record.

(Discussion off the record.)

Exam. Baumgartner: On the record.

By Mr. Mueller:

Q. Is that the best of your ability of establishing the location?

A. Yes, that's about the best I can do in establishing the location.

Q. On direct examination you referred to that part of the Gilbertville certificate which authorizes operations from Massachusetts to Rhode Island and Connecticut.

A. Right; correct.

Q. And in the event of origination of a shipment by Gilbertville at a point such as Newton, Massachusetts—

A. Yes.

Q. —how does Gilbertville operate to take such a shipment to Providence, Rhode Island?

A. Well, it would take the shipment from Newton and [fol. 732] it would either go into Gilbertville or it might go down to Ellington and from there it would go into Providence.

Q. And it would be handled all the way?

A. Overnight. It would be handled overnight. It would be handled, if Gilbertville originated the shipment and destined the shipment, it would be handled all the way Gilbertville, sure, and it would be overnight.

Q. And do you conduct such operations?

A. Yes, we do. Not too much of it, but some.

Q. Well, leaving that subject for a moment, I understood that Gilbertville interchanged with some 50 carriers. Is that your testimony?

A. That is right.

Q. Some 25 of them are located in New York and 25 in Massachusetts?

A. I said that more or less, 25 more or less on either end.

Q. Can you name the carriers with whom you interchange in Massachusetts?

A. Yes, I can. We interchange with Blue Line; we interchange with Gay's Express, Holmes, O'Brien, just about anybody that goes up to Maine and New Hampshire we interchange with.

Q. At what principal points would you interline with Blue Line, Gay's, Holmes?

A. Actually, Gay's most of the time is Springfield, sometimes Worcester or Boston. We also do an interchange with [fol. 733] Blue Line at Boston or Worcester, and, well, basically that would be the points at which interchange is made. That is with exception, now of the—I haven't mentioned the New York end of it. If you want a whole list of them, I think I could almost give you the New York end. I know I have a list.

Q. Would you interline a New York shipment, a shipment originated at Gilbertville at Springfield?

A. Say that again, please.

Q. Would you interline a shipment originating at New York with another carrier at Springfield, Massachusetts?

A. Yes, I might.

Q. Could you show us the authority for such an interline in your certificate? Let's take for example, Exhibit B-7 on Sheet 8. The sheets are not numbered. A shipment on Pro No. 13062 which appears to have originated at Brooklyn, New York have been interchanged at Springfield, and I assume that's Springfield, Massachusetts, and destined to Manchester, New Hampshire and consisted of some doors.

A. Now what was that question again?

Q. The question is as to the authority of Gilbertville which authorized that operation.

Exam. Baumgartner: You mean under which interchange is made at Springfield.

The Witness: Yes, I can give you that authority. It's under Certificate of Public Convenience and Necessity MC-87431.

[fol. 734] Q. At what point?

Miss Kelley: I'm objecting to these questions. Personally I can't see the point of it unless it's an attempt to trick the witness, Mr. Examiner, and which has no part of a finance proceeding.

Exam. Baumgartner: I think cross-examination may be conducted for the purpose of testing the knowledge of the witness with respect to the testimony he gave on direct examination. That isn't an attempt to trick the witness. It's an attempt to find out the extent of his knowledge of the matters concerning which he has testified.

By Mr. Mueller:

Q. Could you tell us how that particular shipment was handled, Mr. Nelson?

A. Yes, I can.

Exam. Baumgartner: Will you please tell me what sheet that is shown on?

Mr. Mueller: It's the eighth sheet.

Exam. Baumgartner: I want the sheet on which the shipment is shown. I have it now. Thank you. That's Pro No. 13062, Brooklyn to Manchester, doors, interchange at Springfield.

The Witness: Manchester, New Hampshire. There's two Manchesters.

Exam. Baumgartner: Yes, Manchester, New Hampshire, that's right.

The Witness: Now your question again, please.

[fol. 735] Exam. Baumgartner: He asked you how that shipment was handled.

The Witness: Yes: picked up in New York, went to Gilbertville, Massachusetts, which is part of the town of Hardwick, to Springfield, and thence by connecting line to Manchester.

By Mr. Mueller:

Q. And if I asked you a similar question concerning other shipments originating in the New York area which

are shown on this exhibit to be interchanged at Springfield, would your answer be similar?

A. That's right.

Q. Springfield was the point of interchange of that shipment to which we were addressing our previous question.

A. That's right, absolutely right. It says Springfield. I guess it must be right.

Q. And you have those underlying documents with you so that we can verify that statement if desired?

A. Yes.

Mr. Barrett: Excuse me, if you don't mind. Could we have a short recess? I have a call I'd like to make before four o'clock.

Exam. Baumgartner: We'll recess until four o'clock.

(Short recess.)

Exam. Baumgartner: Let's come to order, please.

Mr. Mueller, will you please continue.

By Mr. Mueller:

Q. Mr. Nelson, during the recess I examined Pro No. [fol. 736] 13062 which relates to the shipment from Brooklyn, New York via Springfield to Manchester, New Hampshire to which we were addressing ourselves before the recess, and I found nothing on that document which would indicate an operation providing a gateway that you suggested, namely, Gilbertville en route to Springfield, and I would like to ask you whether you have any other records which would show me that particular operation.

Miss Kelley: Well, I object to the question, Mr. Examiner. I don't know of any requirement under the Commission's regulations that on the shipping documents the routes traversed should be put down there.

Mr. Mueller: Frankly, I don't either, Miss Kelley, but I'm trying to ascertain whether there are other records in existence from which we might ascertain the facts which would lend credence to or perhaps disprove his allegations.

Exam. Baumgartner: I think, Miss Kelley, he sponsors this exhibit and he can be properly cross-examined on its contents.

You may answer.

The Witness: We operate the same as any other trucking company. We show the point of transfer on our pro and the point of origin as well as the destination, but that's all we show.

By Mr. Mueller:

Q. And I'm asking you in addition to the pro if you have any other records which would show the route of operation.

A. I don't know how I could prove that.

[fol. 737] Q. I'm not asking you how you could prove it. I'm asking you whether or not you have any other such record.

A. To prove it actually?

Q. To prove the actual route of operation.

A. There wouldn't be any way that I know of to prove that. I wouldn't have any way of proving it. You just have to take my word for it, that's about all.

Exam. Baumgartner: In other words, what you're saying is that you have got no record which would show that the shipment referred to moved through Gilbertville?

The Witness: That is right.

Exam. Baumgartner: Well, that's a simple answer.

By Mr. Mueller:

Q. Now, while we are on the subject of interchange, I understood you to give Miss Kelley a 5 per cent answer dollarwise as a comparison. I believe it was, of the interchanges between Gilbertville and L. Nelson as compared with the entire business of the Gilbertville Company. Was that the purport of that 5 per cent figure? If not will you please straighten me out.

Miss Kelley: May we have the question read?

The Witness: Yes, I'm not too sure about that.

Exam. Baumgartner: Will you please read it?

(Question read.)

The Witness: I'm no attorney, now. That's one of those fancy words—what did you say, "purport"?

Miss Kelley: Do you understand the question?  
 [fol. 738] The Witness: Just rephrase it a little bit. I think I know what you mean but it would be easier for me to give you the correct answer.

By Mr. Mueller:

Q. Let's put it this way: Did I understand you to say that 5 per cent of all the business that Gilbertville does is interchange traffic with L. Nelson & Sons?

A. That's an approximate percentage, yes, sir.

Q. Now that comparison is of the interchange with Nelson with all of the business of Gilbertville, is that correct?

A. That's right, yes.

Q. Now, can you give us a comparison between the interchanges with Nelson as contrasted with the interchanges which Gilbertville does with all other carriers?

A. I have never really figured that out to be perfectly honest with you. It is a wise policy to figure that out—I mean just as operational procedure, but honestly I never did.

Q. Can you give us any approximation?

A. Well, I would say that the total transfer business, business that's turned over to other carriers would—this would be just a guess—I would say that it would be somewhere between 60 and 75 per cent would be local traffic, that is traffic originated and destined on my own line, and the 25 per cent would probably be the total turned over to other lines.

Q. Including L. Nelson?

A. Yes.

[fol. 739] Q. Now a proportion of that 25 per cent which is interchange business or interline business is done with L. Nelson?

A. I told you before that I think that about approximately 5 per cent of it—it would be between 25 and 30 per cent, let's say, and that's now a guess, would be interline traffic. Out of that figure, 5 per cent or thereabouts would be business interlined with Nelson in particular.

Exam. Baumgartner: In other words, one-fifth or one-sixth of all interline business that your company does is with the Nelson Company?

The Witness: Approximately.

By Mr. Mueller:

Q. Well, then, did I misunderstand the comparison which I stated at the outset of this series of questions, namely, that the 5 per cent figure was a comparison of the interline with L. Nelson with all of the traffic handled by Gilbertville?

A. When I said 5 per cent I meant 5 per cent of the business that is conducted by Gilbertville, all of the business.

Q. All of the business?

A. That is conducted by Gilbertville.

Q. Now when you tell the Examiner that the 5 per cent is of the 25 per cent interline business, then it isn't correct, is it?

A. No, no.

Miss Kelley: I object, because that's not proper characterization.

[fol. 740]. Mr. Mueller: I admit I think I'm being perhaps—

Exam. Baumgartner: He said that 5 per cent of his revenues were derived from interchange business with Nelson. He said that about 75 per cent of his revenues were derived from local business, that is business local to his line. Then he later said that about 25 to 30 per cent of his revenue was derived from interchange business with everybody, that is with all carriers.

Mr. Mueller: I follow it so far.

Exam. Baumgartner: So that must mean, it's a mere mathematical calculation that one-fifth or one-sixth of his interchange business is done with Nelson. It's a comparison between 5 per cent and 25 to 30 per cent, see?

Mr. Mueller: If that's the witness' answer, I'm satisfied.

Exam. Baumgartner: That's what I understood him to say.

The Witness: I'm satisfied if you are.

Exam. Baumgartner: It isn't a question of whether I'm satisfied or not. It's a question of whether your answer is accurate to the best of your knowledge.

The Witness: Yes, it is.



Mr. Mueller: Thank you, Mr. Examiner.

Mr. Barrett: Before we go off this, Mr. Examiner, I am not satisfied. I followed you up to the point where you said one-fifth of his business is interchanged with Nelson.

Exam. Baumgartner: One-fifth of his interchange business [fol. 741] is with Nelson.

Mr. Barrett: Oh, I didn't hear you put in the interchange.

Exam. Baumgartner: One-fifth to one-sixth of his interchange business is with Nelson, and I take it that means traffic that leaves your line and traffic that comes on to your line by interchange?

The Witness: Yes. Now understand that that figure is approximate.

Exam. Baumgartner: An approximation.

The Witness: Yes, it is.

By Mr. Mueller:

Q. Now do you understand, or do I understand correctly, father, that you have a 60-40 divisional arrangement with three other carriers in addition to Nelson?

A. Yes.

Q. Can you tell us with whom?

A. Yes, I can if you want it.

Q. Will you do so?

A. Yes. It's with Hyman's in New York, Hyman's Express, and with Byrnes Long Island Motor Cargo, Incorporated.

Mr. Barrett: How do you spell that Byrnes?

The Witness: B-y-r-n-e-s, Byrnes Long Island Motor Cargo, Incorporated. I can't think of the other one, the name of the other one. It's another Long Island carrier anyway. It goes from New York City out to Long Island, covers the whole Island.

Exam. Baumgartner: Now who gets the heavy end of this [fol. 742] division, your company or the other carrier?

The Witness: Well, I get the heavier end.

Exam. Baumgartner: In all three cases?

The Witness: I get the heavier end on all three cases and in one instance it's a 50-50 split down through the middle.

Exam. Baumgartner: Constant?

The Witness: Constant 50-50, yes, it is.

Exam. Baumgartner: With respect to all shipments interchanged?

The Witness: Yes.

By Mr. Mueller:

Q. Now with reference to Hyman's Express, do they serve more than one point?

A. They serve the whole Island which is about 100 miles long, all of Long Island, any point in Long Island.

Q. They have that authority?

A. Well, they service it for me.

Q. Do they service it for you?

A. Yes, indeed.

Q. Regardless from what point?

A. Regardless from what point on the Island that split prevails.

Q. Is the same true as to Byrnes?

A. Byrnes Long Island Motor Cargo?

Q. Does it serve more than one point for you?

A. It serves the whole Island, all 100, 110 miles of the [fol. 743] Island with the same split-up. There's no change in the split-up. If they just have to haul it 10 miles or 110, the same split prevails.

Q. In answer to a question by Miss Kelley as to what caused you to negotiate this transaction, referring to the application now before us, I understood you to say, "Solomon spoke to me about the possibility of merging." Do you mean by that did he propose the merger to you or did you propose the idea to him?

A. Well, let's put it this way: He sowed the seed, and of course I'm in constant touch with him on accounting matters, let's call it, accounting matters, and that's when he mentioned it.

Q. Your statement is that he gave you the idea?

A. Yes.

[fol. 750] KENNETH A. H. NELSON, resumed.

Cross examination (continued).

By Mr. Barrett:

Q. Mr. Nelson, you stated that at the present time you control 100 percent of the stock of Gilbertville Trucking Co. despite the testimony that a Mr. Kashady and Mr. Nelson also were stockholders, is that correct?

A. That is right.

Q. And, of course, your attorney having one share for qualifying purposes.

A. That is right.

Q. Now when this contract or agreement was signed that is the subject of this hearing, did you also control 100 percent of the stock at that time?

A. At the time that the contract was signed for this merger?

Q. Yes.

A. Yes.

Q. And did you also control 100 shares when the application was signed, the application for transfer of merger?

A. Yes.

Q. And I presume, then, that you also owned 100 percent when the application was filed with the Commission.

A. Yes.

Q. Now your company also holds intrastate authority, does it not?

[fol. 751] A. Yes.

Q. From what states?

A. Massachusetts.

Q. And can you tell us, percentagewise, how much of the total revenue consists of traffic moving in intrastate commerce?

A. No, I am afraid I couldn't give you percentage.

Q. Could you give us any estimate as to the amount that is intrastate vs. interstate?

A. No, I am afraid I couldn't. I haven't really made a survey of the intrastate traffic.

Q. Could you tell us which is more or less?

A. Intrastate vs. interstate?

Q. That is correct.

A. The interstate would be more.

Q. Does the company transport less than truckload traffic?

A. Yes.

Q. And in the handling of that traffic, normally, it is picked up by a truck, goes into a terminal, consolidated into a line-haul vehicle and brought to another terminal where it is sorted again for delivery, is that correct?

A. That is right.

Q. Now can you tell us at which one of your terminals the principal sorting of this less than truckload traffic is done?

A. Well, that would be very hard to say because it is about an even amount in all terminals. There might be a [fol. 752] little more in New York.

Q. Well, maybe if I put the question this way to you, assuming you had calls in New York City, say for the pickup of many less than truckload shipments who are destined for Massachusetts, will you explain to us how those shipments are picked up and how they are physically handled up to delivery.

A. Yes. They are brought into the New York platform and, in some cases, they are actually loaded on the vehicle at pickup and left right on the vehicle, depending to what part of Massachusetts they are going. For example, if they were going to western Massachusetts or central Massachusetts, they would go to Gilbertville. If they were moving toward northeastern Massachusetts or that area, they would move from New York through the Gilbertville gateway and Hardwick gateway on into Boston and there they would be distributed.

Exam. Baumgartner: You said in many cases that shipments picked up at New York are left right on the vehicle.

The Witness: That is right.

Exam. Baumgartner: What do you mean by that?

The Witness: Well—

Exam. Baumgartner: Picked up by the line-haul vehicle?

The Witness: That is right.

Exam. Baumgartner: And the other shipments are picked up by pickup and delivery vehicles.

The Witness: That is right, yes.

[fol. 753] Exam. Baumgartner: And they are loaded then to the line-haul vehicle with the shipments that are already in there.

The Witness: That is correct.

Exam. Baumgartner: That were picked up by the line-haul.

The Witness: That is correct.

By Mr. Barrett:

Q. In any cases are vehicles leaving New York dispatched to your Ellington terminal?

A. Yes, some are.

Q. And what kind of traffic is on those? Is it truckload or less than truckload?

A. Generally speaking, it would be truckload.

Q. First, in the case of truckload traffic, how is that operation handled, and I am referring to vehicles that go to Ellington, Connecticut.

A. Yes, but explain where the shipment would be headed for.

Q. Well, we will first take a point in Massachusetts.

A. The line-haul vehicle would move from New York to Ellington and terminate there and then move on from there onto the destination via the proper gateway.

Q. And is that a truckload shipment?

A. That would be on a truckload shipment.

Q. Now less than truckload.

Exam. Baumgartner: For clarification, what did you mean that the movement would terminate at Ellington?

The Witness: Actually, it wouldn't terminate there; it [fol. 754] would, let's call it, pause there.

Exam. Baumgartner: I want to keep the record as clear as I can.

By Mr. Barrett:

Q. Now, assuming that that same shipment we are talking about was a less than truckload shipment, how would it be handled from New York City to a point in Massachusetts?

A. It would move and pause at Ellington, where it would be broken down to the direction that it was going and then move on through the proper gateways to the destination.

Q. Now assuming that less than truckload shipment we are referring to was destined, first, to a point in western Massachusetts, we will take Pittsfield, for example, how would it move beyond Ellington?

A. Into Pittsfield?

Q. Yes.

A. If it were originating at New York?

Q. Right.

A. The shipment in question?

Q. Yes.

A. It would move on up to Hardwick and then on to Pittsfield.

Q. And if it were destined to eastern Massachusetts, for example to Boston, how would it go?

A. No eastern Massachusetts would come in on Rockville, as a general rule; they would go direct through.

[fol. 755] Q. Now I am going to ask you the same question relative to a truckload shipment that originates at New York that is dispatched to your Ellington terminal and destined to a point in Connecticut, take any point in Connecticut, New Haven for example.

A. Well, I don't remember too much truckload traffic, to be perfectly frank, into Connecticut points. As a matter of fact, it would be very very unusual for truckload traffic into points of Connecticut, but, if it were moving via Ellington, that is, pausing at Ellington, it would then move on into Gilbertville and into the point in Connecticut.

Q. Will you explain the physical operations of the truckload shipment after it leaves Ellington. I presume a line-haul vehicle takes it from New York City to Ellington.

A. That is right.

Q. What happens beyond Ellington?

A. Beyond Ellington it would move on into Gilbertville.

Q. And from there, where would it go?

A. Then on to the destination point.

Q. And how would it move to the destination point?

A. On the line-haul vehicle, unless it were LTL.

Q. Assuming the vehicle is in Gilbertville now and the shipment is destined to New Haven, Connecticut, where would the vehicle go from Gilbertville?

A. The vehicle would go to New Haven.

[fol. 756] Q. By what route or routes, principally?

A. Well, since we are an irregular route carrier, any route that he felt like taking would be all right with me.

Q. Now the same example, a shipment moving from New York City via your Ellington terminal that is a less than truckload shipment destined for New Haven, Connecticut, for example.

A. An LTL shipment you are referring to now?

Q. Yes. Do you understand your last explanation was for a truckload shipment?

A. Yes. That would be on the lighter side. Usually such shipments are handled via Gilbertville direct, that is, into Gilbertville direct, where they are combined with shipments that originate in Massachusetts destined for Connecticut points, and then they flow on down through into the Connecticut points.

Q. In any instance, is traffic destined to a point in Connecticut dispatched from New York City to your Ellington terminal?

A. LTL traffic, yes, and then from there it would go to Gilbertville, where it would be combined with other Connecticut freight, LTL freight, for delivery.

Q. And would that delivery from Gilbertville be effected on this LTL shipment in the same manner as you have stated for the truckload shipment, generally?

A. From Gilbertville?

[fol. 757] Q. Yes.

A. Yes, it would be distributed.

Q. Now on the average, how many vehicles are you loading per day moving between Massachusetts and New York?



A. Between Massachusetts points and New York?

Q. Right. Give us each way and the total.

A. That would be kind of difficult for me to say.

Q. Can you give us a minimum number you move between those points?

A. We are speaking now of Massachusetts points; oh, perhaps three vehicles.

Q. And is that each way?

A. Well, they would have to move each way, yes.

Q. That is per day.

A. Yes.

Q. And that is a minimum?

A. This is rough.

Q. It is an estimate, I understand that.

Exam. Baumgartner: Did you say three vehicles each way?

The Witness: Yes.

Exam. Baumgartner: And a total of six.

The Witness: Well, three vehicles southbound and they would have to come back.

Exam. Baumgartner: The same day?

The Witness: The following day.

[fol. 758] By Mr. Barrett:

Q. Normally, these trucks you have listed being owned by your company are used for pickup and delivery work.

A. No, they are used for every phase of the operation. The trucks I have listed on the exhibit, you mean?

Q. That is correct.

A. No, they are used for every phase of the operation.

Q. Are any of them devoted to pickup and delivery work at any terminals?

A. Yes, the ones that I mentioned were in New York would be for pickup and delivery work.

Q. That is five, correct?

A. Yes.

Q. At Rockville, you have listed four; what are they used for?

A. They would be used for picking up and actually for line-haul and delivery as well.

Q. Now if I asked you the same question relative to the one pickup truck at Gilbertville, the three at Woonsocket, and two at Newton, what would your answer be?

A. They would be used on line-haul and delivery. For example, the shipment or shipments might be picked up at Fitchburg and on the very same vehicle move down into Connecticut points for delivery on the same vehicle.

Q. Now do you use the straight truck for line-haul operations to and from New York City?

A. The straight truck?

Q. Yes, as a general practice.

A. As a general practice, no. We have used them, but as a general practice, no.

Q. When you use one it is the exception to the rule rather than the rule.

A. Yes.

Q. Now getting back to my question as to the number of vehicles or trips running per day between Massachusetts and New York points, assume you had those three trips moving out of Massachusetts tonight; will you correspondingly have some vehicles moving out of New York City tonight destined for Massachusetts with freight?

A. Yes.

Q. And those vehicles that came into Massachusetts with freight from New York, arriving early tomorrow morning, would be loaded, if you had freight, back to New York tomorrow night, is that correct, not the identical vehicles, but other vehicles would be loaded back.

A. I don't know as I get you exactly.

Q. I will withdraw the question. You stated that tonight you might have three vehicles loaded into New York City.

A. Yes.

Q. And correspondingly, tonight, out of New York City, [fol. 760] you would have vehicles loaded coming into Massachusetts.

A. That is what we try to do.

Q. That is the normal practice if the freight is available.

A. Yes.

Q. And I asked you what would be the average number going between Massachusetts and New York City and you said three.

A. Approximately.

Q. And that is a minimum?

A. Well, that would be a minimum.

Q. And then the Examiner asked you whether that was one way or two ways and you said the next day those vehicles would come back to Massachusetts, do you recall that?

A. That is right.

Q. But on the day they are moving to New York City, you have other vehicles that are moving back from New York City, isn't that correct?

A. Yes.

Q. With that in mind, does that three that you have given us include both the northbound and southbound movements or just one part of it? In other words, the three trips per day, do they involve trucks moving in both directions or is it three trips southbound and a different number northbound or what?

A. No, if they moved southbound full, they would have to move northbound either empty or full. I don't know as I understand exactly what you are driving at, but if they [fol. 761] moved to New York full, they have either got to move back empty or loaded.

Exam. Baumgartner: Let's get this clear.

By Mr. Barrett:

Q. I am going to press a little further because I am not satisfied. On the average day, what is the average minimum number of vehicles the company dispatches from its Massachusetts terminals to its New York terminal?

A. What is the minimum number?

Q. Average number, I am asking you.

A. I said approximately three.

Q. On that same day, what is the average number of vehicles your company is dispatching from the New York City terminal to Massachusetts?

A. Massachusetts points?

Q. Yes.

A. That would be three, same number.

Mr. Barrett: Does that satisfy you, Mr. Examiner?

Exam. Baumgartner: I think that clears it up, yes, thank you.

By Mr. Barrett:

Q. Now do you also use tractors and trailers in your intra New England operations; that is, between points in Massachusetts, Rhode Island and Connecticut you serve?

A. Well, we use both types. There is no differential between the two.

[fol. 762] Q. I know you have already explained you use tractors; now I am asking do you also use tractors and trailers in operations between points in Massachusetts, Rhode Island and Connecticut?

A. Yes, sir, we do.

Q. And the average day, forgetting your trucks, how many tractors are you using in that New England area?

A. Well, it would be very difficult for me to estimate. Are you referring to all phases?

Q. That is right.

A. Are you speaking of leased and owned equipment?

Q. Yes.

A. We would be using all of our own equipment and leasing anywhere from one to possibly half a dozen vehicles, somewhere around there.

Q. Is that per day?

A. Yes.

Exam. Baumgartner: When you use the term "vehicles," are you referring to tractor and trailer as constituting one vehicle?

The Witness: That is right, yes.

By Mr. Barrett:

Q. Now in your operations, do you normally use all the equipment that your company owned that you have testified to here with the exception of vehicles that may be laid up for maintenance and repairs?

A. That is right.

[fol. 763] Q. Now who do you lease these one to six vehicles per day that you have just mentioned from?

A. As a general rule, from L. Nelson & Sons.

Q. And these 53 truck drivers you have mentioned, are they normally used by your company each operating day?

A. What was that?

Q. I will repeat the same question. In your normal operations, do you use these 53 drivers every day?

A. Yes, those would be steady drivers.

Q. Do you have any vehicles on permanent lease?

A. Yes, we have some.

Q. Before we go any further here, do you understand what I mean by permanent lease? I mean one that is for a stated period of time, thirty days or more, and not a trip lease.

A. Yes.

Q. Now, do you have any vehicles on a permanent lease?

A. Yes, we do.

Q. Approximately how many?

A. That would be difficult for me to say; I would have to check that.

Exam. Baumgartner: Do you mean, Mr. Barrett, from L. Nelson & Sons?

Mr. Barrett: No. I just asked him the general question.

Exam. Baumgartner: Regardless of the lesser.

Mr. Barrett: That is correct.

[fol. 764] By Mr. Barrett:

Q. Is it more than one?

A. Yes, it would be.

Q. Is it more than 10?

A. Oh, no.

Q. Is it more than five, do you know?

A. Well, I can't say exactly, but I know it is less than five.

Q. Well, we can split it in the middle, is it more or less than three?

Miss Kelley: Could I suggest the witness take time to figure it out?

Exam. Baumgartner: Can you answer the question, Mr. Witness?

By Mr. Barrett:

Q. I am just asking you for an estimate.

A. You are asking for an estimate and you are trying to buttonhole it to some specific number. I would say the estimate would be five or less.

Q. And that is an average figure.

A. I would suggest so.

Q. And from whom are those vehicles leased?

A. They would be leased from L. Nelson & Sons.

Q. And for how long a period of time have those leases been in effect?

A. They would be varying lengths of time.

Q. Have any of them been in effect for six months or [fol. 765] more, to your knowledge?

A. Yes, that is possible.

Q. Now I would like to ask you what vehicles are covered by these long-term leases we have been referring to, or what type of vehicles.

A. As a general rule, it is old—

Q. I mean the type, trucks, tractors, trailers or what?

A. It would be tractors and I think straight jobs as well.

Q. Just to clarify the record, when you refer to a tractor, do you also include a trailer to go with that tractor?

A. Not necessarily, no.

Exam. Baumgartner: Do you lease any trailers for the permanent period in the sense in which Mr. Barrett is using that term?

The Witness: No, trailers are on trip lease.

Exam. Baumgartner: All on trip lease?

The Witness: Yes.

By Mr. Barrett:

Q. So then all of these permanent leases cover either tractors or trucks.

A. That is right.

Q. Now out of the average five you have given us, how many of those are trucks as opposed to tractors?

A. Well, possibly half and half.

Q. Do you know?

A. I don't have the exact figures before me, Mr. Barrett.

[fol. 766] Q. I appreciate that, but you are in charge of your company's operations each day, are you not?

A. That is right.

Q. And responsible for making equipment available to meet the needs of the company.

A. That is correct.

Q. And in doing that, you must know how many vehicles your company owns.

A. Yes.

Q. And you must know how many it has available on a daily basis to handle the traffic that it normally handles.

A. Well, we make the necessary equipment available using our own and whatever we need to lease and Nelson has available to lease.

Q. Now I am not asking you about trip leases. Under these permanent leases, you must consider that equipment available.

A. Yes.

Q. Without making arrangements day to day.

A. That is true.

Q. And I am merely asking you, you knowing how your company operates in your mind, how many trucks, in addition to those you own, are available on a day to day basis without having a trip lease from Nelson.

A. I would suggest three straight trucks.

Q. And I will ask you to approximate the number of tractors.

[fol. 767] A. That would be probably two or three.

Ex n. Baumgartner: Mr. Witness, when you use the word "suggest," what do you mean by that, you estimate?

The Witness: Yes, estimate.

Exam. Baumgartner: I would rather you would use one of those terms than the word "suggest."

The Witness: I will use that term.



By Mr. Barrett:

Q. Now, those vehicles you just talked about are under permanent lease that we defined.

A. Yes.

Q. Now in addition to those that we have described under permanent lease, could you estimate an average number that are trip leased from Nelson each day?

A. I thought you have already asked me about the trip lease. You asked me to estimate the trip lease number.

Q. And is this the answer, one to six vehicles?

A. Yes. Did I say six?

Q. One to six.

A. Approximately.

Q. And those one to six are trip leases in addition to the approximately five permanent leases.

A. Yes.

Q. Now you have been in the trucking business some time, have you not?

A. Yes.

[fol. 768] Q. And prior to being with Gilbertville, you were with Nelson, is that correct?

A. Yes.

Q. And as far as you know, in the normal truck operation, is it usual to have more trailers than tractors?

A. As a general rule, that is correct.

Q. Now I note from your equipment list you have twelve tractors as against eight trailers.

A. Yes.

Exam. Baumgartner: Which equipment list are you looking at, Exhibit 25?

Mr. Barrett: That is Gilbertville's.

Exam. Baumgartner: Exhibit 25.

By Mr. Barrett:

Q. Now in giving us this trip lease of one to six vehicles, did that include trucks and tractors only?

A. Trucks and tractors only?

Q. Yes.

A. No, I didn't say that.

Q. All right, I am just asking the question.

A. Units; in other words, tractors and trailers.

Q. Now in addition to those one to six units you have referred to as your trip lease, do you lease trailers alone?

A. Trailers alone?

Q. Yes.

A. Yes, we do that occasionally.

[fol. 769] Q. Are they included in any of the figures you have given us?

A. No.

Q. And from whom do you lease those trailers?

A. As a general rule it would be from Nelson's.

Q. Can you tell us on an average how many such trailers are leased by your company from Nelson on any day, forgetting any reference to any other figures you have given us?

A. Yes. You are speaking now on a daily basis, right?

Q. Yes, I am asking you to estimate.

A. An average day. Well, we lease the tractor and the trailer units and I told you that there would be from one to six of complete units and probably a couple trailers. I would estimate two trailers per day.

Q. And all those vehicles you have testified that your company has been leasing, those have all been leased predominantly from L Nelson.

A. Predominantly, yes.

Q. Can you recall from any other source you have leased such equipment?

A. Yes, we have leased from other sources. There is one I can think of in particular, an oil company up in Ware, and in New York, we have an arrangement with a company, Smith and Jordan, where we lease the equipment to them and they lease the equipment to us and it is on an arrangement where it works itself out.

[fol. 770] Q. Does this Smith and Jordan do any pickup and delivery work for your company in New York City?

A. Yes.

Q. Do you know whether it does any for L Nelson & Sons?

A. I couldn't tell you.

[fol. 771]

By Mr. Barrett:

Q. Now your tractors, you stated, are being used, 12 in number, every day, is that correct?

A. Twelve in number every day?

Q. Yes, your own company-owned ones.

A. Yes, except, of course, when there is one knocked out by virtue of mechanical failure.

Q. So as far as your company-owned operations are concerned, on the average day you must make up four trailers to go with those 12 tractors.

A. That is right, if they are all operating.

Q. And they are, I think you testified, normally used from L. Nelson.

Q. Now as far as your interchange with L. Nelson is concerned, that is conducted only on a limited class of commodities, is that correct?

A. That is right, whatever Nelson is authorized to handle.

Q. And as we previously said, that is generally in the textile line.

A. That is right.

Q. Now when interchanging with the Byrne Company, [fol. 772] that is accomplished in New York City, is that not correct?

A. That is right, yes, sir.

(Discussion off the record.)

By Mr. Barrett:

Q. These 25 other carriers you interchange with in New York City, do they generally serve points that are not covered by the Byrne's service?

A. The points that are covered, first of all, by the Byrne's service, meaning New Jersey, Pennsylvania, Maryland, Delaware, Washington, Virginia, West Virginia, the whole eastern seaboard.

Q. They cover that area.

A. That is right.

Q. Now for the most part, the traffic that you interchange with to these carriers, that is moved to points that are beyond the Byrne's service; for example, going through

some of these bills and the list of shipments, Bloomsburg, Pennsylvania.

A. What was that question again, Mr. Barrett?

Q. I will rephrase it. The general practice is to interchange with Byrnes traffic that moves to points in New Jersey and the Philadelphia that Byrnes serves.

A. If the shipment is not specifically routed. As a general rule, if Byrnes serves the point in question, we will prefer the Byrnes line. We will give preference to the Byrnes line.

Q. And these other carriers are used for other shipments [fol. 773] where the shipment might be routed or it is moving to or from a point that Byrnes does not serve.

A. That is correct.

Q. Now where is the physical interchange with Byrnes effected?

A. New York, N. Y.

(Discussion off the record.)

By Mr. Barrett:

Q. Could you tell us where the predominant amount of interchange between your company, Gilbertville Trucking, and L. Nelson occurs?

A. Can I tell you where?

Q. Yes.

A. The bulk of it would be at Monson, Massachusetts.

Q. And in my reviewing Exhibit B-7 and the freight bills supporting it, would I be correct in inferring that the bulk of it occurred at Monson, Massachusetts?

A. Yes, sir, the bulk of it would.

Q. Now would you take your Exhibit No. 26.

A. Yes, sir, I have it.

Q. And you are familiar with the shipments that are shown therein.

A. Yes; indeed.

Q. Could you indicate on that exhibit where there has been any interchange with L. Nelson & Sons at any other point other than Monson, Massachusetts?

[fol. 774]. A. Yes, on page 3, on page 6.

Q. On page 3, will you indicate that shipment for me?

A. What was the question, Mr. Barrett, I have the shipment in question?

Q. At any other point interchange with L Nelson than at Monson?

A. Yes, this on page 3. There is a shipment moving between—

Q. Give us the pro number.

A. 67875, a shipment moving to Pittsfield, Massachusetts from a point in Pennsylvania.

Q. And where was that interchanged?

A. That would have been interchanged at Ellington, Connecticut or Somers, Connecticut, but the physical interchange would take place, actually, in Ellington, Connecticut.

Exam. Baumgartner: Just a minute. For clarification, you are referring to pro No. 67875.

The Witness: That is right.

Exam. Baumgartner: You stated that the destination was Pittsfield.

The Witness: That is right, Pittsfield, Massachusetts.

Exam. Baumgartner: It is indicated on this sheet as being the origin point.

The Witness: I beg your pardon; I am sorry; it was just an error on my part.

(Discussion off the record.)

[fol. 775] The Witness: I want to correct that to Pittsfield as the origin point.

Exam. Baumgartner: Is that still an illustration to Mr. Barrett's question?

The Witness: Yes, it is.

Exam. Baumgartner: It is all right for that.

The Witness: Yes, sir.

By Mr. Barrett:

Q. Now I am showing you this particular delivery receipt, 67875. Since that is the first one we have examined, will you indicate for the record what your delivery receipt shows as far as general information is concerned.

A. It shows that the shipper is located at Pittsfield, Massachusetts, that the shipment is destined to Clifton Heights, Pennsylvania and it is transferred to Nelson at Souers, Connecticut.

Q. And also does it show the number of pieces, the commodity, the weight, the rate?

A. It does, and it also shows the division of revenue.

Q. And it shows on the bottom a stamp, "Received by L. Nelson & Sons Transportation Co."

A. That is correct.

Q. And on the heading it shows Gilbertville Trucking Co., Inc.

A. Yes, it does.

Q. And it shows a P. O. Box address, No. 58, at Gilbert-[fol. 776] ville, Massachusetts.

A. Yes, it does.

Q. And it shows terminals at Boston, Lowell-Lawrence, Worcester, New York, N. Y., Philadelphia, Woonsocket and Rockville, giving telephone numbers after each, is that correct?

A. Those numbers—

Q. Will you answer the question.

Miss Kelley: I think he is answering the question. He should have an opportunity to answer.

The Witness: This does not represent terminals.

By Mr. Barrett:

Q. What I just explained to you is on the delivery receipt, is that correct?

A. The telephone numbers, yes.

Q. And they are after certain locations, for example, Boston, Lawrence, Lowell, as I have previously enumerated, is that correct?

A. They are not offices, however, telephone listing only.

Q. Now my next question would be to ask you to explain, for example, a telephone number on a Gilbertville Trucking receipt at Philadelphia, Pennsylvania.

A. Gilbertville Trucking Co. has the authority to service Philadelphia, Pennsylvania on special commodities.



Q. You also show Wilmington, Delaware, will you explain that.

A. Because we service Wilmington, Delaware on special [fol. 777] commodities.

Q. Now in connection with those two places, Philadelphia and Wilmington, does your company have personnel stationed there to accept calls?

A. No, they do not.

Q. Who accepts the calls for them?

A. We do not have any telephone at Wilmington Delaware. At Philadelphia, we have never received a call that I know of.

Q. Is L Nelson listed in Philadelphia at that same Garfield number?

A. Yes, L Nelson is listed under the telephone number shown there, is that correct.

Q. So if you did get a call at Philadelphia, it would come in L Nelson's terminal.

A. Yes.

Q. While we are on the subject of telephones, in Boston, the Decatur number, is that the same telephone number that is listed to L Nelson?

A. That is correct, it is.

Q. In Lawrence and Lowell, you have an Enterprise number, is that the same listed to L Nelson?

A. Yes, that is correct.

Q. And, do you know whether or not L Nelson has a terminal at Worcester?

A. They do not have a terminal at Worcester.

[fol. 778] Q. Do you know, in connection with that Worcester number—it is a Pleasant exchange—whether that is listed in their name also?

A. The Worcester exchange is also listed in their name.

Q. If I asked you the same question with relation to Ravinswood exchange at New York, N. Y.

A. Yes, that is a Nelson telephone.

Q. If I asked you the same question about the telephone numbers shown at Philadelphia, Woonsocket and Rockville, Connecticut, would your answer be the same?

A. Rockville would not be the same, no, sir, that is my own telephone.



Q. Philadelphia and Woonsocket would be.

A. Philadelphia and Woonsocket would be, yes, sir.

Q. In other words, it is the same number listed to Nelson and to your company.

A. That is right.

Q. And that is the general form used by your company, is it not?

A. That is right, yes.

Exam. Baumgartner: What kind of a form is that?

The Witness: Pro form of bill.

Exam. Baumgartner: Is that what is issued to the consignor?

The Witness: Consignee.

Mr. Barrett: I don't believe the witness made a correct [Tol. 779] statement there.

Exam. Baumgartner: You mean you issue a bill of lading to the consignor, don't you?

The Witness: We issue a bill of lading to the consignor and a pro form of bill of lading to the consignee.

Exam. Baumgartner: Now I understand.

The Witness: Pro former, that is where they get the word "pro" from. I don't think there are nine people out of ten that know what pro means.

Exam. Baumgartner: Frankly, I didn't know the origin of the word pro.

The Witness: That is what it is, is a pro former copy.

Exam. Baumgartner: I thought it was taken from the Latin meaning to go forward, progress. Is that a duplicate of the bill of lading that is issued to the consignor?

The Witness: That is right. It is supposed to be copied verbatim.

Exam. Baumgartner: Is it a duplicate?

The Witness: It is not a duplicate, no. It is a copy. You copy it from the bill of lading onto the pro former bill of lading.

Exam. Baumgartner: A separately-made copy.

The Witness: Yes.

By Mr. Barrett:

Q. In other words, these are sometimes called waybills.

[fol. 780] A. Some people call them waybills; we prefer to call them pros.

Q. What you have shown me and what you have in front of you is the delivery receipt which is the copy that your company retains after getting the consignee's signature.

A. That is right, yes, a permanent delivery receipt.

Q. Now on that particular one you have before you, which is that shipment from Pittsfield, Massachusetts to Clifton Heights, Pennsylvania, it shows an interchange with L. Nelson at Somers, Connecticut.

A. That is right.

Q. Now will you tell us how that operation is conducted.

A. The truck, depending upon what it had for lading, might—

Q. May I interrupt you a moment, this is a 23,000 odd pound shipment.

A. This is a 2300 pound shipment.

Q. I am sorry; just describe that shipment.

A. I couldn't tell you exactly how this particular shipment moved, but if it did not have anything else on the vehicle but this shipment, it would have come down and, again, if he was not called into the Gilbertville terminal or have to call at the Monson interchange point to pick up lading on that parked trailer, he would go from Pittsfield through Springfield and down to Somers and just beyond Somers to the Town of Ellington, where the Nelson Company is located, which, by the way, is within a short distance [fol. 781] from the Somers Post Office.

Q. Now as far as Somers is concerned, is that interchange actually effected at the Town of Somers or at Ellington?

A. It would be over the line in Ellington. The physical interchange would take place at Ellington, Connecticut.

Q. And why do you show Somers on the delivery receipt?

A. Because it is being transferred within the commercial zone of Somers.

Q. And are you familiar with Somers; is it a town?

A. Yes, it is a town.

Q. So if I ask you additional questions as to where the symbol S appears on Exhibit 2 under the column "Interchange Point," when S refers to Somers, Connecticut, the interchange was actually effected at Ellington, is that correct?

A. That is correct, for convenience sake.

(Discussion off the record.)

By Mr. Barrett:

Q. Now Exhibit 26 shows comparatively few of those interchanges at Somers, is that correct?

A. Exhibit 26?

Q. Yes.

A. That is not the only one that shows on page 3, page 6.

Q. I am not asking you to count them—that is just a mechanical process—but they show comparatively few as to Monson.

A. That is true.

[fol. 782] Q. And did you hear the testimony of Mr. Chilberg as to how the traffic was interchanged at Monson between the two companies?

A. Yes.

Q. If I were to ask the same questions, would your testimony be substantially the same?

A. As I recall his testimony, it would be substantially the same.

Q. Now in any instances where your company interchanged with Nelson at Monson, is there any occasion where a tractor-trailer of one company will come into Monson and the same tractor and trailer, without any exchange of either the tractor or the trailer, will continue onto destination under lease to the other carrier?

A. No, sir.

Q. There is always a change of drivers or equipment at Monson.

A. It is not a change of drivers, it is an exchange of equipment. The box would either be dropped or the LTL shipment shifted onto the other vehicle and that driver go on to some other point.

Q. If I ask you the same question relative to any interchange at Ellington or Somers, would the answer be the same?

A. Well, now—

Q. Do you want me to restate the question?

[fol. 783] A. Yes, I think you better.

Q. Is there any instance, on an interchange between Gilbertville and L. Nelson at Ellington, where the tractor-trailer unit or the truck, whichever the case might be, moves beyond the interchange point over the lines of the other carrier?

A. No. I will explain to you. When we are offered shipments in transfer or shipments to be transferred to our lines by Nelson at Ellington or at Monson or wherever the point may be, there is no unit that goes through; in other words, as it is turned over to us. If we are told first of all what shipments they have available to us and if we have sufficient equipment of our own, we handle it with our own equipment. If we do not, then we ask them for the lease of the equipment and no unit is specifically leased because there is a load on it, let's say.

Q. Now that brings up my next question. Assuming you had a load coming into one of these interchange points you just referred to and Gilbertville did not have equipment to handle it and it found it necessary to lease a piece of equipment from Nelson, and Nelson did have equipment available and did lease a piece of equipment to Gilbertville, in any instances is that piece of equipment that is leased the same vehicle on which the load originally moved when it was on Nelson's line? Now that is a long question.

A. I know what you mean. Of course we can't dictate to [fol. 784] Nelson what equipment they are going to lease to us, but I suppose, over a period of time, such a situation might be unavoidable, but, actually, we request equipment from them and whatever equipment they have convenient to lease us, that is what we get and we just take care of whatever freight we have on hand, whether it is with their leased equipment or our own.

Q. Now in the course of that answer you suppose something and you have made a statement of certain things were unavoidable. I asked you a definite question; to your knowl-

edge, has that situation ever occurred where Gilbertville has leased the same piece of equipment from Nelson that contained the original movement when it was on Nelson's line.

A. Well, I can't testify that I actually know that that has been the case. I don't recall specific instances.

Q. Then you want your testimony to read it is possible it could have happened.

A. It is possible that it could have happened, yes.

Exam. Baumgartner: May I interject a question. When a truckload shipment moves into Ellington over the Nelson lines, and that truckload is on a trailer, before the shipment comes onto your line, is that load transferred to another trailer?

The Witness: No, not necessarily.

Exam. Baumgartner: Then the trailer does move through.

The Witness: Well—

Exam. Baumgartner: Your testimony up to now has [fol. 785] dealt with units of equipment.

The Witness: Yes.

Exam. Baumgartner: What I am trying to get at is what you mean by unit of equipment.

The Witness: The unit of equipment, Mr. Examiner, I referred to is a tractor and trailer.

Exam. Baumgartner: With the motive power?

The Witness: With the motive power, right.

Exam. Baumgartner: I wanted to get that cleared up because at some points in this hearing trailers were referred to as a unit and on the other hand, tractors were also referred to as a unit, but what you are talking about in response to Mr. Barrett now, when you referred to a unit, you mean a unit having motive power.

The Witness: That is right. I might explain myself there.

By Mr. Barrett:

Q. Let me ask you this question for clarification. It was my intent, when I was asking those questions, to accept the ordinary interchange of a trailer from one line to another. Did you so understand?

A. That is what I thought you were referring to. I think what Mr. Barrett wanted to know was if the entire piece as a unit went forward leased, including the tractor and the trailer.

Q. That is correct. Now did you hear some testimony as [fol. 786] to the fact that Gilbertville pays \$400 per month as its share on the Nelson's telephone bill?

A. That is right, we pay \$400 a month.

Q. Will you tell us what that \$400 a month covers?

A. Yes. That \$400 a month covers our use, when the lines are clear, of the long-lines arrangement that the Nelson Co. had between terminals. It also covers the telephone listings that we have at their various terminals.

Q. And that is just a flat charge between the two companies per month, irrespective of the use of the individual lines.

A. That is a stable figure.

Q. Now in addition to that \$400 per month, I presume that is paid direct to Nelson and not to the Telephone Company.

A. That is right.

Q. Does Gilbertville pay any other telephone bills?

A. Yes.

Q. What do they cover?

A. At our main terminal at Gilbertville and at Ellington, Connecticut.

Q. I am going to show you another one of your delivery receipts, No. 15,210, which shows a shipment of machine parts from Spencer, Massachusetts to Philadelphia, Pennsylvania on 3/18/55, and the weight of 600 pounds. Does that state the essential information on that?

A. Yes, it does.

[fol. 787] Q. And it shows an interchange with Byrnes at New York.

A. At New York, right.

Q. And on the bottom, where it says "Received in good condition," there is a stamp on there, "R. A. Byrnes, Inc., Rockville, Connecticut," is that correct?

A. Yes.

Q. Do you know where that stamp is put on?

A. I couldn't tell you. I would assume at New York.



Q. But you don't know.

A. No. As long as the Byrnes' stamp is on there, we don't care what it says as long as they have got their stamp on there. We turn it over to them at New York, N. Y.

[fol. 788] By Mr. Barrett:

Q. Now there are three other delivery receipts that I want to ask you a question or two on, one dated 3/18/55 and the number is 15212. That shows a movement from Pawtucket, Rhode Island to Rockville, Connecticut, with a transfer from Nelson Transportation at Marlboro, Massachusetts, is that correct?

A. Yes.

Q. Can you explain, first of all, the transfer at Marlboro, Massachusetts?

A. Yes, it would have been turned over to a truck en route.

Q. Now your Exhibit B-7 on that date shows that shipment, Pro 15212 but it does not show the interchange point at Marlboro, is that correct?

[fol. 789] (Discussion off the record.)

Miss Kelley: Is it clear on the record that was inadvertence the interchange point didn't show?

By Mr. Barrett:

Q. Was that a mistake that Marlboro was not shown as an interchange point on that shipment?

A. On the exhibit?

Q. Yes.

A. Yes, that is right.

Q. Do you know how many such mistakes were made in preparing the exhibit?

A. None. It is perfect.

Exam. Baumgartner: With that exception.

The Witness: With that one exception.

Miss Kelley: Mr. Examiner, I am afraid I have to disagree with the witness. It was prepared in my office with



them rechecking it and I hope that we are correct and that there are no errors, but I can't swear to it. We tried very hard to avoid any errors.

By Mr. Barrett:

Q. And when I asked you about this shipment with the Marlboro interchange, did I give the origin and destination of the shipment?

A. That is right.

Q. And the commodity is orlon yarn.

A. Yes, sir.

Q. Now I show you another pro, 16051, with the date of [fol. 790] 5/18/55. The shipment is apparently a truckload lot of grease wool.

A. No, it is not a truckload. It would be about a half a truck, a little less, let's say a half a truck.

Q. And the origin is Norwood, Massachusetts and the destination is Providence, Rhode Island, correct?

A. Yes.

Q. Will you tell us how that operation would be handled.

A. That shipment would have moved from Norwood overnight to Providence via either Gilbertville or Ellington, Rockville. It would have been delivered overnight.

Q. By Gilbertville?

A. By either Gilbertville or Ellington, Connecticut, Rockville, either way.

Q. In other words, it went through one of those two terminals.

A. That is right.

[fol. 791]. By Mr. Barrett:

Q. I will restate my question, Mr. Examiner. Norwood is a point located on Route 1, which is the main route between Boston and Providence, Norwood being south of Boston, Massachusetts, is that correct?

A. That is right.

Q. Now if that particular shipment were brought into your terminal at Gilbertville, will you explain the physical operation, assuming that the shipment was picked up at 4 o'clock in the afternoon.

A. It would be delivered the following morning.

Q. Where would the shipment be brought and would it be held over in any place?

A. Other lading going in that vicinity would be put on there since it was a half a load or thereabouts. Then it would proceed to Providence over any route that the driver chose to use.

Q. In other words, do I gather from that that if you had other freight for the Providence area, that shipment would be brought from Norwood, Massachusetts to Gilbertville and the other freight would be put on.

A. Gilbertville or Ellington.

[fol. 792] Q. I want to break down the question, first, to Gilbertville. It would be brought to the Gilbertville terminal and the other freight would be put on.

A. That is correct.

Q. When would the other freight be put on?

A. It would be put on that night.

Q. And that vehicle would then move from Gilbertville to where and when?

A. The first thing in the morning.

Q. And it would operate over any route that the driver—

A. Happened to choose.

Q. To?

A. To Providence or any other destination that he might have on the truck.

Q. Now if I asked you to explain the same shipment assuming it was brought into the Ellington terminal.

A. The same situation would prevail. The driver would go into Ellington.

Q. Direct from Boston?

A. Direct from Boston. He would observe the proper gateways at Sturbridge, Monson or Springfield, anywhere in that area there, and when he arrived at Ellington that evening, lading that may have come in from other Massachusetts points would be loaded on there for points in Rhode Island, any point in Rhode Island or, for that matter, lower Connecticut even, sometimes.

[fol. 793] Q. Now when the driver picks that up to bring it into Ellington, is he free to traverse any routes he desires?

A. He is free to the extent that he must go through any of the cities or towns of Southbridge, Holland, Wales, Hamden, East Longmeadow or Springfield when he comes over the state line.

Q. But you don't know just which one of those points the driver uses.

A. We don't specify routes.

Miss Kelley: I don't quite understand that last one, you don't specify routes; then why did you name all those points?

The Witness: Because those points are gateway points, Miss Kelley. It is a gateway point; I can go through any one of them.

Q. And then after the shipment is reloaded at Ellington that night, the following morning how does the truck get back to Providence?

A. The truck traverses any route that would be convenient for unloading other shipments either in Connecticut or Rhode Island.

Q. And for the most part, could he go directly to Rhode Island on an easterly route from Ellington?

A. Well; as I said, it varies according to what he has on the truck and what delivery he is making en route. There [fol. 794] is no line-haul involved there. His deliveries might take place all the way over.

Q. Now as far as you are concerned, do you know when a vehicle comes in from Providence or Boston or any other points just what routes the driver has taken?

A. I don't know exactly the routes because we cannot specify routes—we are an irregular carrier—but I have issued to the drivers specific instructions as to the towns that they must come through.

Q. And if a driver took a short cut at any one of those towns, would you have any way of knowing it unless you happened to catch him in the act?

A. Not unless I should catch him in the act and if I did, it would be one less driver I would have.

[fol. 796] Q. You testified that your company employed three dispatchers, will you tell us what terminal dispatchers are located at?

A. Yes, I can.

Miss Kelley: I object. This is repetitious. I am sure Mr. Barrett asked that question on cross examination before.

Mr. Barrett: I don't recall it has been asked.

Exam. Baumgartner: I can't remember whether it has been asked or not. It seems to me it has, but I think, it being a preliminary question, he should be permitted to answer.

The Witness: Three dispatchers, two at Rockville and one at New York.

By Mr. Barrett:

Q. Now at these other terminals that your company operates or that it shares with Nelson, who, if anybody, does the dispatching there?

A. Terminal manager.

Q. And you have how many of those?

A. Four.

Q. Withdraw the tail end of that question. It is already down you have got four terminal managers. And those terminal managers are located where?

A. Woonsocket, Rhode Island, Newton, Massachusetts, Gilbertville and New York.

Q. Can you tell us who does the predominant amount of [fol. 797] the maintenance and repair work on your company's vehicles?

A. International Harvester; we have independent people in New York; we have a mechanic in New York; we have it done with various international branches wherever they are located, and, of course, L. Nelson does repair work for us also.

Exam. Baumgartner: You were asking about maintenance, weren't you?

By Mr. Barrett:

Q. Maintenance and repairs, it was a general question. Now does your company operate a preventative maintenance program?

A. Yes, I would say we do.

Q. Are the trucks regularly inspected at so many hours and so many thousands of miles, greased and oiled and minor repairs made and all that sort of thing?

A. Well, I must confess that we don't do that as religiously as we should. I think that I would have to admit that is one of my failings.

Q. Is it ever done by your company?

A. Preventative maintenance, yes, it is to a certain extent, but as far as a religious program setup, I couldn't say that we have; that would be wrong because we don't really. We fix them up when they are broken; we do grease them and so on, but that is the extent of it, really.

Q. Now you do grease and oil them and check the tires and all that sort of thing regularly.

[fol. 798] A. Yes.

Q. And where is that done?

A. That is done at the various terminals or at the free-lancer garages or at International Harvester; Nelson does some of it, Nelson's garages.

Q. For the most part, is the work that is done by International Harvester on repairs and breakdowns where something actually goes wrong?

A. Well—

Q. I am asking is it a general rule now.

A. They handle any kind of a repair job regardless of what it is.

Q. I know what they do; I am asking you what they do for you.

A. Whether it is major or minor, they handle it for us.

Q. And do you send your vehicles to International Harvester to have them greased and the tires checked, etc.?

A. No, the drivers check the tires.

Q. And how about the greasing and oiling and those minor maintenance chores that go with operating a truck?

A. The drivers take care of that too, with the exception of greasing. Greasing, as I say, is taken care of by the shops, for instance, we have some gas stations that take care of them. It depends a lot on the station.

Q. And percentagewise, do you know how much of that [fol. 799] maintenance work is done by Nelson? Is it 50-50 or a minor part or what? Can you give us an estimate?

A. Well, there again, it would be difficult for me to estimate; I would hesitate to make an estimate.

Q. Would you say it exceeds 50 percent?

A. What exceeds 50 percent?

Q. Nelson does.

A. No.

Q. Would you say it exceeds 25 percent?

A. Well, I would say that it probably was around 25 percent of the work, roughly speaking, now; that is just an estimate.

Q. And that which is done by Nelson, is that predominantly done at Rockville, Connecticut?

A. Ellington, yes, that is correct.

Q. And your company has no mechanics stationed at Ellington.

A. No, we don't have any.

Mr. Barrett: That is all I have, Mr. Examiner.

Exam. Baumgartner: Mr. Bleakney.

By Mr. Bleakney:

Q. You discussed with Mr. Barrett, Mr. Nelson, some of your employees. I believe earlier on your direct you mentioned you had 10 office employees. Will you tell us where they are stationed and what their duties are.

A. That is correct.

Miss Kelley: I object.

Exam. Baumgartner: Have you already told us that?

[fol. 800] Mr. Bleakney: I don't believe where they are stationed.

Miss Kelley: I am sure he did.

Mr. Bleakney: Not according to my notes.



Exam. Baumgartner: It won't do any harm to answer the question. You may answer.

The Witness: They are stationed, the bulk of them, at Ellington, Connecticut.

By Mr. Bleakney:

Q. And the remainder?

A. The remainder would be at the various terminals where minor clerical functions are required.

Q. Could you specify a little more for us the bulk of them?

A. Yes. I have one girl in Gilbertville; I have one girl in New York.

Q. And the rest would be at Ellington?

A. Yes.

Q. And they perform routine clerical work, all these ten office people.

A. That is right, yes.

Q. And these are all full-time employees of your company.

A. Yes, they are.

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[fol. 802] Redirect examination.

By Miss Kelley:

Q. Now what instructions do you give your drivers as to traversing particular points or going between two points?

A. Well, I do not specify specific routes because of the fact that we are, basically, irregular route carriers, but I do have a notice posted at each terminal as to the points through which they must travel.

Q. Is that a notice on the bulletin board?

A. That is right, yes.

Q. In addition to the notice on the bulletin board, do your instructions take any other form as to how they must travel?

A. Verbal to the driver.

Q. Why does Gilbertville have in its files details with respect to equipment owned by L. Nelson?



A. Well, we lease equipment from the L. Nelson & Sons and it is essential that we show the proper motor numbers and serial numbers and so on on the leasing documents.

Q. Are there any other reasons for having such a list in the Gilbertville file?

A. That is the only reason.

Q. Why did Gilbertville purchase property in Springfield?

A. Well, I had been looking for property for a long time. I was just recently able to acquire a piece of land. It was my intention to move out of Ellington up to Springfield.

[fol: 803] Q. If this transaction is not approved and Gilbertville remains as a separate company, what use will be made of that Springfield property?

A. If this application is not approved, did you say?

Q. Yes, and the companies continue to operate separately.

A. If it is not approved, I am going to move out of Ellington and put up a terminal at Springfield.

Q. Have you completed your answer?

A. Yes.

Q. Now some questions as to how the operations are conducted. Does Gilbertville operate a direct service from and to New England points and New York?

A. Oh, yes.

Q. Would you tell us what points such direct service is rendered and how the vehicles are routed.

A. When you say direct service, I assume you mean—

Q. Without stopping, for example, at Ellington terminal.

A. Well, we operate directly out of Gilbertville, Boston and Woonsocket, Rhode Island.

Exam. Baumgartner: Just a minute, Miss Kelley, do you mean single-line service?

Miss Kelley: Yes. By direct service I meant single-line service.

By Miss Kelley:

Q. Now on the truck moving from Woonsocket and single-  
[fol. 804] line service to New York, how is the truck routed?

A. Well, it would clear through the Hardwick gateway, Gilbertville gateway.

Q. And from Boston to New York?

A. Same thing.

Q. And Gilbertville to New York?

A. Same thing.

Q. A direct lead in.

A. Yes.

Q. Now in connection with the rents that are paid by Gilbertville to Nelson, did you hear the testimony of Mr. Solomon—and I believe Mr. Chilberg also testified—as to the amounts paid for rent by Gilbertville to Nelson?

A. Yes.

Exam. Baumgartner: You mean terminal rents?

By Miss Kelley:

Q. Terminal rents. For example, at Newton, Massachusetts, does the rent that is paid there, which I believe the testimony shows is \$100 a month, cover anything other than rents?

A. Yes, at Newton it covers telephone also.

Q. And how about Woonsocket?

A. At Woonsocket, the same thing.

Q. And do you know the amount of rent that Nelson pays, or did you hear the testimony here as to the amount of rent that Nelson pays for Woonsocket and Newton to Burgess & Co.?

[fol. 805] A. I remember hearing it but I forgot what it was.

Q. In addition to the rental payments, you also paid \$400 per month for telephone to Nelson's, is that correct?

A. Yes.

Exam. Baumgartner: You say in addition to the rental payments you pay \$400 a month for telephone service?

The Witness: I will explain that if you wish.

Exam. Baumgartner: I wish you would.

The Witness: At Woonsocket, the rental that we pay there includes the use of the telephone. At Newton, Massachusetts, it includes the use of the telephone; at Rockville, Connecticut, I have my own telephone so it does not cover that.

Exam. Baumgartner: Your records show, I believe, that at Newton you pay \$25 a month.

The Witness: A hundred dollars a month.

Exam. Baumgartner: Twenty-five Dollars a month.

Miss Kelley: No, a Hundred Dollars a month, Mr. Examiner.

Exam. Baumgartner: Since January 1, 1956.

Miss Kelley: Yes, he paid a Hundred Dollars a month since January 1, 1956, and prior to that time it was \$25.

Exam. Baumgartner: I made an error in my notes then.

By Miss Kelley:

Q. Was there any change in the space occupied by you at the various terminals either on or about January 1, 1956?

Mr. Barrett: Mr. Examiner, I want to object for this [fol. 806] reason, I can't recall any testimony on direct or cross relative to any changes in space of terminal, at Gilbertville, particularly, on cross. Now, apparently, counsel is going into some new fields that weren't covered on cross examination.

Miss Kelley: Frankly, it was a question that came to my mind as a result of the Examiner's confusion, and I think you may be right, Frank. It wasn't anything that I had in my notes at all, but it was just something that struck me because of your question and I thought it needed clarification on the record.

Exam. Baumgartner: Well, he was asked to explain the nature of his occupancy and the extent of his occupancy of these various terminals on cross examination, as I remember, and I think if there has been a change in that, why we want the facts on the record here.

The Witness: Yes, there was improved facilities at Newton and Woonsocket and at Rockville, as well.

By Miss Kelley:

Q. What do you mean by improved facilities?

A. For example, at Newton we didn't have any platform space at all; we just had the yard space plus the use of the phone, but we have improved facilities now so that we have

platform space there. At Woonsocket, the actual facilities weren't improved but the yards were improved and we were forced to pay more money too, and in Rockville, the same situation, we are using more space there.

[fol. 807] Q. Are your drivers union men or non-union men?

A. Yes, they are.

Q. Under your contracts with the union, do you guarantee them a certain number of hours per day?

A. Yes, eight hours is the guarantee.

Q. When you lease equipment from Nelson, is that equipment normally leased with drivers or without drivers?

A. Without drivers, normally.

Q. Now in a truckload of freight interchanged between Nelson and Gilbertville, can you recollect any instances where the Nelson driver continued on that truck?

A. No, sir. They couldn't.

Q. Why not?

A. They have got to have their eight hours sleep. When they come in, they couldn't. It would be an impossibility.

Q. So that if the vehicle that was used by a Nelson driver were bringing in a line-haul shipment containing a truckload that was to be interlined with your company, how would that be handled insofar as drivers, etc.?

A. Well, the shipment would be turned over to us. If it was a full load, it wouldn't be unloaded from the trailer, but if we had to lease equipment in order to move it to destination, we would simply request equipment. If they happened to give us the same tractor that pulled the load in, it would be immaterial to us; we wouldn't care what [fol. 808] they gave us. If it happened to be the same tractor, we would use it.

Q. Whose driver?

A. It would be our own driver, Gilbertville Trucking Co.

Q. Does the Gilbertville Trucking Co. handle shipments in single-line service originating at Rhode Island points destined to Connecticut points or vice versa?

A. No.

Q. How are those shipments handled?

A. Some of them are handled via Newton, Massachusetts; others might be handled via Worcester.

Q. What do you mean by Newton or Worcester?

A. That is where they would be interchanged or interlined.

Q. So that if any such shipments are shown in Exhibit B-7 or Exhibit 26 without showing an interchange point, is it your position that there has been an error in taking off the information on the pros?

A. That is true.

Exam. Baumgartner: May I make some inquiries on this Exhibit No. B-7? I notice quite a few shipments listed in Exhibit B-7 in connection with which no interchange point is shown. Are you now testifying that the failure to show the interchange point was an error?

The Witness: Where the interchange points are not shown, with respect to the shipments that Miss Kelley just mentioned, that is correct.

[fol. 810] Q. You were asked a question about repairs to Gilbertville equipment by L. Nelson & Sons Co. Do you know if Nelson charges Gilbertville more than Nelson's costs on such repairs?

A. Yes, they do, I know that.

Q. Can you tell us to what extent the charges to Gilbertville exceed the costs?

A. I know they are paying around \$2.00 an hour for their help or thereabouts.

Q. When you say "help," what class of help?

A. Mechanical help, and they are charging us \$3.00 per hour.

Q. And as far as parts are concerned, do you know whether or not they are charging—

Exam. Baumgartner: Just a minute, do you understand that that \$1.00 excess is a profit?

[fol. 811] The Witness: Well, I don't know.

Exam. Baumgartner: She is asking you about profit now.

The Witness: I don't know what else you could figure that to be. Charlie probably won't admit it is profit, but it is.

Exam. Baumgartner: Isn't there a great deal more involved than the mere employment of a mechanic and operation of a repair shop that has to come out of that dollar?

The Witness: That is probable.

Exam. Baumgartner: But you call it a profit. I want to be sure that you understand what you are talking about.

The Witness: Yes, I see. I realize, of course, that there is overhead coming out of that. To me, it looks like a dollar difference.

By Miss Kelley:

Q. And you think it is profit.

A. I think it is profit.

Q. Now as far as parts are concerned, do they furnish parts?

A. Yes they do occasionally.

Q. Do you know whether or not any profit is made with respect to the parts?

A. Yes, they charge us 10 percent above cost on the parts.

Q. Does Nelson bill Gilbertville regularly with respect to such repairs?

A. Yes, they do.

Q. For any repairs it may make to the Gilbertville equipment?

[fol. 812] A. Yes, they do.

Q. Mr. Barrett questioned you with respect to service to Wilmington and Philadelphia under specific authority to transport paper products.

A. Yes.

Q. Can you tell us how frequently Gilbertville rendered service under this portion of their authority to Wilmington and Philadelphia?

A. It would be on the average of a couple of times a month or thereabouts.

Exam. Baumgartner: That is service to those points.

The Witness: To and from those points, Mr. Examiner.



Exam. Baumgartner: Am I in error when I say that my recollection is that you didn't have any business out of Wilmington northward?

The Witness: I didn't say that.

Exam. Baumgartner: I am mistaken then. Telephone service?

The Witness: Telephone service, right. As a general rule, when we handled a load down to Wilmington, we would handle a load back.

By Miss Kelley:

Q. Are these paper products handled for more than one account or is it one account?

A. Oh, yes, we handled for more than one account.

Q. And you serve those accounts, whatever they may be, as far as Philadelphia and Wilmington.

[fol. 813] A. That is correct.

Q. Would it normally be truckload traffic from Philadelphia to Wilmington?

A. Yes, it would be.

Miss Kelley: That seems to be all I have, Mr. Examiner.

Exam. Baumgartner: Mr. Mueller in recross.

Recross examination.

By Mr. Mueller:

Q. Why did you say that Gilbertville has a list of the Nelson equipment in its files?

A. I said we had a list of Nelson equipment available so that we would have a knowledge of the identity of those vehicles such as the motor numbers and serial numbers and so on.

Q. That was done, I suppose, to facilitate leasing when it is necessary.

A. That is right, yes. We use that information for the lease document.

Q. Now are written leases used between the two companies?

A. Yes.



Q. And who, on behalf of the Gilbertville Trucking Co. is authorized to execute such leases?

A. Any of the terminal managers.

Q. The dispatchers?

A. And the dispatchers.

Q. Any other officer?

[fol. 814] A. Yes, traffic manager.

Q. And you yourself, I suppose.

A. Oh, yes.

Q. Any of the clerks?

A. Yes, some clerks have authority.

Q. In addition to the written leases, is some other document executed at the time the vehicle lease is executed?

A. The inspection of the vehicle; we make an inspection of the vehicle.

Q. And do the same parties that you have just mentioned execute those inspection reports?

A. As a general rule, that is correct.

[fol. 815] Exam. Baumgartner: Let me put the question. Do you mean that the drivers employed by Nelson are sometimes employed by you and on your payroll from an interchange point?

The Witness: Now as far as my using a Nelson employee, I will use a Downing & Perkins employee; I will use any truckman's employee who happens to be available to me if the need arises, a spare man, in other words.

Exam. Baumgartner: Well, who pays him at the time he is working for you?

The Witness: I pay him; Gilbertville Trucking pays him.

Exam. Baumgartner: Is he on your payroll?

[fol. 816] The Witness: He is on my payroll if he goes to work for me; I pay him.

Exam. Baumgartner: That is what occurs when there is an interchange of equipment and the driver goes along.

The Witness: No, that only occurs when I am short on men.

[fol. 817] By Mr. Mueller:

Q. Very well. You testified that you sometimes take over Nelson equipment at Ellington, Connecticut.

A. Lease it, you mean.

Q. Lease it at Ellington, Connecticut, for delivery to a point on the Gilbertville line.

A. On my line, yes.

Q. And I want to know whether or not a Nelson driver drives that equipment beyond Ellington.

A. No, sir.

Q. I am not talking about the driver who brought the shipment or brought the truck to Ellington, we'll say from a point on the Nelson line.

A. A Nelson driver does not drive that equipment.

Q. By that do you mean that man is not your driver because he is on a Nelson payroll or just how is it handled?

Miss Kelley: Mr. Examiner, I do have objections to the question.

Exam. Baumgartner: Your objection was running.

[fol. 818] By Mr. Mueller:

Q. Let's go back just a little bit: you have a piece of Nelson equipment that you are going to take over at Ellington, Connecticut.

A. That I am going to lease.

Q. Suppose you don't have a driver available at Ellington?

A. Then I hire a man and I don't care who he belongs to.

Q. He may be a Nelson driver?

A. It might be, but I hire him and I pay the bill and I pay for his wages.

Q. And to facilitate that process, I will ask you again whether you keep a list of the Nelson drivers available in your office.

Miss Kelley: I object; it is immaterial to this case.

Mr. Mueller: Mr. Examiner, it is perfectly germane to the inquiries that have been made here.

Miss Kelley: What is the materiality to an application case as to what—

Mr. Mueller: It is perhaps a question in fitness.

Exam. Baumgartner: Well, I think that is a good deal like the question awhile ago whether or not they maintained an equipment list and part and parcel of the same thing, and there has been some testimony about that. I think I will let him answer, but subject to your objection, Miss Kelley.

The Witness: We maintain a list of spare men of not only Nelson Co. but any other carrier; in other words, men who may be working for Nelson or for any carrier in the [fol. 819] particular area involved. If we need a man, we call the best one on the list and that is the one we use. We don't care whether he has worked prior for Nelson, or for the King of England for that matter. We hire him and use him.

By Mr. Mueller:

Q. I understand you trip lease from Nelson from one to six units a day.

A. Yes.

Q. And how often in a week's time would you use, in a normal operation, a driver on such leased Nelson equipment who was not regularly employed otherwise by the Nelson Company?

Miss Kelley: I object to that question, too, for the same reasons. I state further, I don't understand the question.

The Witness: I don't understand it either.

Exam. Baumgartner: What was your question again?

Mr. Mueller: I want to know, Mr. Examiner, as to these units of equipment, one to six a day, they lease from Nelson, how often those units are driven by drivers who would normally be employed by other truck lines other than Nelson or Gilbertville, let's put it that way.

Exam. Baumgartner: Now do you understand the question?

The Witness: You mean men other than regular employees, spares, so-called? You are referring to spare men that come in from the union hall or from—

[fol. 820]

By Mr. Mueller:

Q. Do you hire from the union hall?

A. I hire from the union hall, sure.

Q. Regularly?

A. Well, we have the privilege of calling the men direct, which is not accorded most outfits. We can call the men direct, put them to work directly. In other words, we can have the list and call whoever we please and if they are available for work, we put them to work. It is apt to be a Nelson man.

Q. It is apt to be a Nelson man. How often it is a Nelson man?

A. Well, it might be a Nelson man often if he is available. We don't care.

Q. Would you give preference to the Nelson man?

A. We sure would because they are good men, generally speaking.

. . . . .

[fol. 821]

By Mr. Barrett:

Q. On redirect, you stated you gave these instructions as to gateways in two different methods. Now does your prior testimony still stand that whether or not the driver follows the instructions is unknown to you unless per chance you catch him doing something wrong?

A. That is true.

Q. Is your payment of \$400 per month for the telephone service to Nelson a check separate from any other payments?

A. No, it wouldn't be. If it is billed to us, it would be separately, of course. On occasion, it could be paid separately or it could be paid with other charges that they have against us.

Q. Who signs the checks for your company?

A. For my company?

Q. Yes.

A. Kenneth Nelson.

Q. That is you.

[fol. 822] A. That is me.

Q. Now do you know, when you sign checks payable to

the Nelson Company, whether or not the \$400 for the telephone services is separate and distinct from any other billings they might make to you?

A. Oh, yes.

Q. It is separate?

A. Yes, it is.

Q. And this rent that is paid by your company to Nelson, is that separate from any other payment?

A. That is separate, too, yes.

Q. And at the present time, that monthly amount is how much, do you recall?

A. I believe I testified to that.

Miss Kelley: Monthly amount of rent?

Mr. Barrett: Yes.

Miss Kelley: I object; that has been clear in the record; it has been put in by every witness.

Exam. Baumgartner: I think he has asked for the combined amount, telephone service, terminal rent, etc.

Miss Kelley: Do you want to make the computation?

Exam. Baumgartner: Give us an approximation.

The Witness: A Hundred Dollars at Woonsocket, \$100 at Newton, \$100 at Rockville and \$250 at New York.

By Mr. Barrett:

Q. That is \$550 a month, if my addition is right.

[fol. 823] Exam. Baumgartner: Addition of what?

Mr. Barrett: In addition to the \$400.

By Mr. Barrett:

Q. Now do you make a separate check payable to the Nelson Co. in that amount or in that vicinity for rent?

A. I wouldn't necessarily say that it would be a separate check, no, not necessarily.

Q. Is it a separate check?

A. No, I wouldn't say that it is.

Q. What else is combined with that \$550 for rent?

A. Other billings, might be for repairs or for anything that we purchase.

Q. Repairs or parts.

A. Yes.

Exam. Baumgartner: I don't know; I have some difficulty, Mr. Barrett, in seeing what difference it makes whether he writes one check or three or five.

Mr. Barrett: We had it in the record, I thought, fairly clear that Gilbertville paid to Nelson \$400 for telephone services. Then she brings up the fact in addition to telephone services, certain rental payments included telephone or vice versa. Now I am just trying to ascertain specifically how much was made payable to Nelson for telephone as against how much for rent.

Exam. Baumgartner: What is the difference whether it [fol. 824] is written in two or three checks or one check? Why don't you ask specifically, is there a specific billing. What does the billing show?

By Mr. Barrett:

Q. What does the billing show?

A. The billing would show \$400 for the telephone service and the separate terminals would be separate, that is, the rentals for the terminals would be separate.

Q. And what do the billings for the terminals show, how much for rent?

A. One Hundred Dollars for—

Q. Broken down separately?

A. Yes, they would be.

Q. Now do you review these billings as they come in from Nelson?

A. Yes, I do.

Q. On the average, can you recall how much you paid Nelson for repair bills and parts?

A. Repair bills and parts?

Q. Yes.

Miss Kelley: I object. I can't see the materiality of that, Mr. Examiner. He has given a proportion before and I didn't ask anything on redirect with respect to these bills because Mr. Barrett had asked him a number of questions on the point of the proportion of his repairs done by Nelson, etc.

Mr. Barrett: If I could call the Examiner's attention [fol. 825] to the fact that Miss Kelley, on her redirect



examination, elicited from the witness the fact that Nelson, as far as this witness knew, paid its mechanics \$2.00 and they billed Gilbertville \$3.00 and that they marked up the cost of their parts 10 percent when they did repair work on Gilbertville vehicles. Now I am sure the Examiner calls that to mind on redirect examination.

Exam. Baumgartner: Yes, I recall that.

Mr. Barrett: This question is directed for that specific testimony, if he knows how much his company, Gilbertville, pays to the Nelson Co. for this repair work at \$3.00 an hour for mechanics and the 10 percent markup in parts.

Exam. Baumgartner: Over what period of time?

Mr. Barrett: I am asking if he can give it for any period, a week or month.

The Witness: I couldn't give you a fair estimate.

By Mr. Barrett:

Q. Is it paid weekly or monthly?

A. It is billed on a weekly basis and usually paid on a monthly basis.

Q. And do you know specifically how much is billed on an average weekly?

A. Well, of course, that would vary with the degree of need.

Q. Can you give us any minimums or maximums?

A. No, I am afraid that I couldn't.

Q. Then it is your testimony you don't know how much [fol. 826] you pay Nelson for repairs and parts.

A. Oh, I wouldn't say that. I am not saying that.

Q. Do you know?

A. But I couldn't make an estimate for a period of time because of the fluctuation. It stands to reason that if you have an unusually heavy period where you are using your equipment hard, you will have more repairs and then you might run into a spell where you don't have any major work done. It fluctuates.

Q. Do you know how much you paid Nelson for repairs and parts for Gilbertville vehicles?

Miss Kelley: I object.

By Mr. Barrett:

Q. You stated you couldn't give it to me in any period, but you certainly did know. Now I am just asking you, do you know?

A. Do I know for what period?

Q. I am not giving any period; I say, do you know how much you paid to them?

A. Yes, I certainly do.

Q. How much?

Miss Kelley: I object to the question.

Exam. Baumgartner: That is a very indefinite question and a very indefinite answer. Let's get down to brass tacks here. He says, "Do you know," and you say, yes, you do know.

The Witness: Well, I can't give him an estimate.

[fol. 827] Exam. Baumgartner: Now suppose I am a buyer and I come to you and say, "Mr. Nelson, I understand you use Nelson for making repairs to your vehicles; among other items of expense, can you give me some idea how much you pay Nelson monthly, can you give me a rough idea," and what would you say?

The Witness: Well, I would say around Three or Four Hundred Dollars.

Exam. Baumgartner: Well, now, that is better. In other words, I don't like this sparring between counsel and the witness and we are getting no place.

The Witness: I don't mean to spar, Mr. Examiner.

Mr. Barrett: Mr. Examiner, I want to state on the record that I did not intend to spar with the witness. If you recall, one of my first questions was, could he give me an estimate as to the monthly amounts that he paid for repairs and parts.

Exam. Baumgartner: I know that. You asked him three or four questions along that line and my impression was that you were sparring with each other.

Miss Kelley: Mr. Examiner, on that point, can I ask just one thing, when he said Three or Four Hundred Dollars, is that an average?

Exam. Baumgartner: That is what he said; I asked him.

Miss Kelley: Thank you.

By Mr. Barrett:

Q. Now you stated that you did not transport any traffic between points in Rhode Island and points in Connecticut [fol. 828] unless it was interchanged.

A. That is right.

Q. And your counsel stated that she hurriedly went through Exhibit B-7 and Exhibit 26 and could find no other than the one we previously talked about where there was an interchange at Marlboro, Massachusetts.

A. Yes.

Q. I show you delivery receipt No. 68046 dated 5/7/56. It shows a shipment of one carton of tennis string shipped from Rockville, Connecticut to Pawtucket, Rhode Island. Does that show any interchange carrier?

A. It doesn't show any interchange carrier on it.

Exam. Baumgartner: What is the weight of the shipment?

The Witness: Thirty-six pounds.

By Mr. Barrett:

Q. I show you a second one dated 3/8/55, No. 15882. Is that a shipment from Bridgeport, Connecticut to Providence, Rhode Island, weighing 694 pounds?

A. Yes.

Q. Being the commodity set-up boxes.

A. Yes.

Q. Does that show any interchange with any other carrier?

A. No, it does not.

Q. Do you recognize trailer numbers or truck numbers at the bottom?

A. Yes.

[fol. 829] Q. Do you know whether or not those are your numbers or not?

A. That wouldn't be my number; that is too high.

Q. Do you know whether it is a Nelson number?

A. It looks very much like a Nelson number.

Q. Neither of those brochures show an interchange carrier.

A. They do not show an interchange carrier, but they may well have been interchanged with Andrews & Pierce at Boston or Nemasket. There is a division shown I note on this one, 15882, and on 68046 I note that there is no division on that one.

Q. But nothing on the face of the bill.

A. There is nothing on the face of the bill that shows it has been turned over to a connection.

[fol. 830] Further redirect examination

By Miss Kelley:

Q. What is the practice with respect to spare drivers as you mentioned?

A. What is my practice?

Q. Yes.

A. I maintain a substantial list of spare drivers.

Exam. Baumgartner: Miss Kelley, I think he has gone over that ground pretty thoroughly.

Miss Kelley: There was a question by Mr. Mueller with respect to it and I personally feel that it needs clarification. [fol. 831]

Exam. Baumgartner: Will you ask him a specific question instead of asking him a broad question. What is his practice with respect to spare drivers; an explanation of that might take a half an hour.

By Miss Kelley:

Q. The spare drivers, are they normally the men that are on the bottom of a seniority list according to the union dues?

A. That is right.

Q. Now is it a common practice for those so-called spare drivers to work for more than one trucking company?

Mr. Barrett: I object.

Exam. Baumgartner: You may answer.

The Witness: Some of them make their entire livelihood by going from truckman to truckman. They work a day

here and a day there and take the whole week working for five different carriers.

By Miss Kelley:

Q. Now might that man work for Nelson during a week and work for Gilbertville during a week and some other carrier?

A. Yes, he might.

Q. Do you know the drivers that have been hired by you as spares that have worked for Nelson as well as other companies during a particular week?

A. Yes.

[fol. 832] Q. If you do not have work for a driver on a particular day, do you pay that driver or call him in to work?

A. No, we call and tell him not to come to work.

Q. And do you have any strings on a driver to prevent him from working for any other trucking company?

A. No.

Q. And is that true with respect to any spare drivers that you may call?

A. That is right. That is industry practice, by the way.

Q. What?

A. Industry practice to call men.

Miss Kelley: I misunderstood the word. That is all I have.

Exam. Baumgartner: Mr. Witness, you may be excused, subject to recall by Miss Kelley.

(Witness excused.)

Miss Kelley: I wish to offer Exhibits 25 and 26.

Exam. Baumgartner: Exhibits for identification No. 25 and 26 have been offered in evidence. Is there any objection? There being no objection, they will both be admitted in evidence.

(Applicant's Exhibits No. 25 and 26, Witness Kenneth A. H. Nelson, were received in evidence.)

[fol. 835] Mr. Mueller: Mr. Shea, please take the stand.

EDWARD D. SHEA was sworn and testified as follows:

Direct examination.

[fol. 836]

By Mr. Mueller:

Q. Will you state your name for the record.

A. Edward D. Shea.

Q. What is your employment, Mr. Shea?

A. Safety Inspector and Special Agent of the Interstate Commerce Commission.

Q. Where is your office?

A. 824 Post Office Building, Boston, Massachusetts.

Q. How long have you been employed by the Interstate Commerce Commission?

A. Fifteen years.

Q. Prior to that, did you do some work in an investigative nature?

A. Yes, for 12 years an investigator in the Massachusetts Registry of Motor Vehicles.

Q. Has the Interstate Commerce Commission issued certain credentials to you in your capacity as a special agent and safety inspector?

A. They have.

Q. In your official capacity, Mr. Shea, have you made certain investigations of the things that have been before the Commission in this proceeding?

A. I have.

Q. Will you state where and under what circumstances the affairs of these companies first came to your attention.

A. On October 21, 1954, about 8 p.m., on U. S. 20 in [fol. 837] Westfield, Massachusetts, I observed a tractor semi-trailer unit owned by the L. Nelson & Sons Trucking Co., Inc. of Rockville, Connecticut displaying paper placards on each side of the tractor reading "Leased to Gilbertville Trucking Co., Inc., Gilbertville, Massachusetts, MCH7431."

Q. Did you do anything about this; was your curiosity aroused?



A. The next morning I discussed with District Supervisor LaCour at our Springfield, Massachusetts office my observation.

Q. That would be October 22.

A. That is right, and he told me that early in 1953 a Mr. Kenneth Nelson, who was formerly connected with the L. Nelson Trucking Co.—

Exam. Baumgartner: Just a minute.

Miss Kelley: Object to the hearsay nature of the testimony.

Exam. Baumgartner: Objection sustained.

Mr. Mueller: He is relating a conversation, Mr. Examiner, of Mr. LaCour, who is here.

Exam. Baumgartner: He shouldn't testify to what he was told. He can testify that there was a conversation and state the subject of the conversation, but I don't think he should be permitted to repeat what Mr. LaCour told him.

By Mr. Mueller:

Q. Very well. As a result of your conversation with Mr. LaCour, did you do anything?

[fol. 838] A. Yes. That same day, about 1 o'clock p.m., I went to Gilbertville, Mass. and attempted to locate the offices of the Gilbertville Trucking Company.

Q. Did you find them?

A. I could not locate them. I went to the Post Office and inquired at the Post Office and I was told there that the Gilbertville Trucking Company's terminal was located at the Ware, Massachusetts airport.

[fol. 842] By Mr. Mueller:

Q. Did you make an investigation of some of the practices and procedures of the Gilbertville Trucking Co. on the occasion of this visit?

A. Yes, I made a safety survey, survey of the carrier.

Exam. Baumgartner: On what date?

[fol. 843] The Witness: October 22, 1954.

By Mr. Mueller:

Q. Were there any lists of drivers on file?

A. Yes.

Miss Kelley: I object to this. The point at which the survey was made has not been identified.

Exam. Baumgartner: Yes, I think he stated the point, didn't you?

The Witness: This was at the Ware, Mass. airport, Ware, Mass.

By Mr. Mueller:

Q. And there was a terminal building of some kind?

A. An airplane hanger converted into a trucking terminal.

Q. What did you ascertain as to the number of drivers employed by Gilbertville?

A. There were six drivers employed.

Q. Did you study the file of the drivers' medical certificates, and if so, what did you find?

A. I found that they had a doctor's certificate for one driver, I think, and no doctors' certificates for the other drivers.

Q. Now did you make any effort to investigate payroll records and what was the result of that effort?

A. I asked to check payroll records and found that the payroll records were all maintained at Rockville, Connecticut.

[fol. 844] Q. Did you examine the drivers' log files?

A. They had drivers' logs, I think, for only two drivers. There were no logs on file for drivers Smith, Nusuata, Seddler and LeMay. I also found they had no doctors' certificates on file for drivers Walters, Smith, Nusuata, Seddler and LeMay.

Q. Were you able to examine any pros or freight bills at the Gilbertville terminal?

A. I was shown a file of Gilbertville pros, which were prepared in longhand, on outgoing shipments only. There was a bill of lading attached to the back of each pro. There were no pros or other records of incoming shipments on file at this terminal.

Exam. Baumgartner: What do you mean by incoming shipments?

The Witness: Shipments that were received at that terminal for further transportation.

By Mr. Mueller:

Q. Did you examine any motor vehicle equipment on the occasion of that survey on October 22, 1954?

A. Yes, I found that the carrier owned two trucks, five tractors and eight semi-trailers.

Exam. Baumgartner: As of what date?

The Witness: That is on 10/22/54, they owned two trucks, five tractors and eight semi-trailers and they leased, on that particular day, six tractors, semi-trailers from the L Nelson Trucking Company. I observed on the premises in the yard [fol. 845] while I was there—

Miss Kelley: I object. It appears to me that question is answered and Mr. Shea is volunteering further information.

Mr. Mueller: Let him finish, Mr. Examiner.

The Witness: I observed standing in the yard four L Nelson & Sons semi-trailers, T90, T82, T58 and T128, standing in the yard empty, and one tractor semi-trailer owned by Gilbertville in the yard. In the office, while I was making my survey, I saw a list of equipment which I found was a list of equipment owned by the L Nelson Transportation Company, Inc., listing these vehicles by registration plate number, vehicle number, make, type serial number. This list included trucks, tractors and semi-trailers. I also saw a pile of leases.

Miss Kelley: I object. There is no question pending before this witness.

Exam. Baumgartner: Let's stop this wandering in testimony.

By Mr. Mueller:

Q. What else did you look into on the occasion of your visit on October 22, 1954 to the Gilbertville terminal?

A. I inspected a file of leases of vehicles between the L Nelson Company and the Gilbertville Company.

Miss Kelley: May I see the paper that Mr. Shea is reading from, Mr. Examiner?

(Miss Kelley examined the document from which the Witness was reading.)

[fol. 846] By Mr. Mueller:

Q. Had you finished your answer, Mr. Shea?

A. No, I had not.

Q. Continue, please.

A. These leases showed a flat rate.

Q. In what amount or amounts?

A. Fifteen, Twenty and Twenty-five Dollars. I am looking for my notes here now.

Exam. Baumgartner: Just a minute, he hasn't finished his answer, I don't think. "Showed a flat rate of Fifteen, Twenty and Twenty-five Dollars," that doesn't mean anything so far.

The Witness: The lease of a vehicle from Gilbertville to New York City showed \$25 for payment of that lease. They are all on flat rate fixes, \$15, \$20 and \$25.

By Mr. Mueller:

Q. Does that figure seem to vary dependent upon the origin or destination of the trip?

Miss Kelley: I object to the leading nature of the question.

By Mr. Mueller:

Q. Very well, tell us what else you saw.

A. These leases were to various destinations and various originating points and the payment varied according to the length of the trip.

Q. Now, Mr. Shea, as a result of findings made on October 22, 1954—

Exam. Baumgartner: Just a minute; have you covered [fol. 847] the ground there? What kind of equipment was leased, a tractor and trailer or truck or trailer alone or what at these rates?

The Witness: Those that I recall were tractor semi-trailers, complete units.

By Mr. Mueller:

Q. Did you subsequently conduct further investigation at Ellington, Connecticut? Just answer yes or no, Mr. Shea.

A. Yes.

Q. And can you give us the date of that investigation?

A. November 9, 1954.

Q. And who were you with?

A. With District Supervisor LaCour.

Q. And where did you go?

A. We went to Ellington, Connecticut.

Q. Did you enter the premises occupied by L Nelson & Sons?

A. Yes, we did.

Q. Can you describe them briefly?

A. This is a white farmhouse-type building with a large barn or tobacco shed out in the back, which we later found was a terminal. We entered at the rear door into a large room.

Q. This was in the white house?

A. In the white house on the first floor. We entered this large room, which had a bulletin board over to one side and we observed a man sitting at a desk operating a teletype machine and answering telephone calls and also issuing [fol. 848] orders over an intercom system to some one.

Q. And who was that man?

A. That man I later found out was Kenneth Nelson.

Q. Were these premises that you have described in any way marked to show occupancy by L Nelson & Sons Transportation Co.?

A. Yes, there was a sign and we saw these L Nelson vehicles all over the yard.

Q. Now did you say there was a teletype machine in the room?

A. There was.

Q. Was there something about that machine that attracted your attention?

A. Yes. I observed there was maybe two or three yards of this wide teletype paper covered with messages that

rolled out of the back of the machine down to the floor in back of the machine.

Q. Did any one handle this tape?

A. Yes, Mr. Kenneth Nelson tore it off the machine and folded it up very carefully.

Exam. Baumgartner: Who did?

The Witness: Mr. Kenneth Nelson.

Exam. Baumgartner: Was he the man that was operating the machine?

The Witness: He was.

By Mr. Mueller:

Q. Did you later have occasion to ask Mr. Nelson for [fol. 849] permission to inspect this teletype tape?

A. I did.

Miss Kelley: I object.

Exam. Baumgartner: What is the objection?

Miss Kelley: The objection is "did you later." We have got a date, as far as I can understand, of November 9, 1954.

By Mr. Mueller:

Q. Well, I will clarify the question. Did you later on that day, namely, November 9, 1954, have occasion to ask Mr. Nelson for permission to look at the teletype tape you have described?

A. Yes, about twenty minutes later.

Q. And with what results?

A. About thirty minutes later on the same day I asked Mr. Kenneth Nelson to produce the teletype tape that he had taken out of the machine for my inspection and he told me he had destroyed it.

[fol. 850] By Mr. Mueller:

Q. Did you make any comment to Mr. Nelson regarding preservation of those records?

A. I showed Mr. Nelson a copy of the Commission's rules for the preservation of records and called his specific attention to the item which required teletype messages to be



retained for a period of three years, and again demanded that he produce the teletype records.

Q. Did he do so?

A. He did not.

Exam. Baumgartner: Which teletype record?

The Witness: That I had observed in the back of the machine.

Exam. Baumgartner: After he had told you he destroyed it.

[fol. 851] The Witness: I again made a demand on him to produce it.

Exam. Baumgartner: What did he tell you upon your second demand?

The Witness: He said, "I have destroyed them."

Exam. Baumgartner: He told you that twice?

The Witness: That is right.

Miss Kelley: My objection stands.

Exam. Baumgartner: Yes, I understand you have got a running objection based upon hearsay.

By Mr. Mueller:

Q. Mr. Shea, when you first came upon the premises on November 9, 1954, was Mr. Clifford Nelson present?

A. He was not.

Q. Did he come to the premises at some time during the day?

A. He did later that afternoon, that same day.

Q. Was Mr. Chilberg there?

A. No, sir, Mr. Chilberg was not there during our visit that day, Mr. Charles Chilberg.

Q. Did you meet a Mr. Seiferth?

A. Yes, I did.

Q. Did you ascertain what his job was there?

A. He was a dock foreman.

Q. A dock foreman in the employ of whom?

A. L Nelson & Sons.

Q. Did you observe any activities of Mr. Seiferth and Mr. Kenneth Nelson?

[fol. 852] A. Mr. Kenneth Nelson issued some instructions over the intercom system down to the dock to Mr. Seiferth and instructed him to bring a certain vehicle up to the office.

When Mr. Seiferth brought the vehicle up to the office, Mr. Kenneth Nelson then told him to take it back down again.

Exam. Baumgartner: To the dock?

The Witness: Back to the dock. That is a large white building.

Exam. Baumgartner: On the same premises?

The Witness: On the same premises, about a hundred yards in back of the office building.

Exam. Baumgartner: Connected with the teletype?

The Witness: No, intercom system.

By Mr. Mueller:

Q. Now did you find a portion of these premises were also carrying some designations as being occupied by the Gilbertville Trucking Company?

A. We later went upstairs; went through the downstairs part of the house and upstairs and through two other offices and then away over to one side of the building, which looked like it was a small bedroom, we found the office of the Gilbertville Trucking Company, and pasted on the door of that room was one of the paper placards used on the trucks, which said, "Operated by Gilbertville Trucking Company, Gilbertville, Massachusetts, MC No. so and so."

Q. Was that office occupied?

[fol. 853] A. There was no one there that day.

Q. Did you observe the conduct of Mr. Kenneth Nelson in relation to any other Nelson employees on that day?

A. Yes, on two separate occasions I observed Mr. Kenneth Nelson issuing instructions, three times in our presence, to Mrs. Marjorie Edwards, whom we later found was in charge of the L Nelson & Sons Co. office.

Q. Now did you make any checks of records filed in the office designated as that of Gilbertville's?

A. Yes, we did.

Q. Did you check doctors' certificates?

A. I did.

Q. Did you check payroll records of Gilbertville?

A. Yes, I did.

Q. Time clock?

A. I did.

Q. Cards?

A. Yes.

Q. Now did you also, during the day, make a similar check of Nelson records?

A. I did.

Q. Have you a comment to make on the result of those checks?

Miss Kelley: I object to such a broad question. It does not give me the proper opportunity to object to the answer and all of these questions—

[fol. 854] Exam. Baumgartner: Let's take one type of record at a time, Mr. Mueller.

By Mr. Mueller:

Q. What did you observe as the result of checking the files of doctors' certificates of the two carriers?

A. We found that the Gilbertville files had a complete file of doctors' certificates of all the L. Nelson & Sons drivers.

Q. What did you find as a result of checking the payroll records?

A. We found numerous instances of the same driver working during the same payroll week for both L. Nelson & Sons and Gilbertville Trucking Company.

Q. What about the use of the time clock?

A. There was a time clock down on the first floor in this drivers' room I first described and we found that the Gilbertville drivers and the L. Nelson drivers both used the same time clock.

Q. Did you make any attempt to ascertain whose time clock this was, who it belonged to?

A. I don't recall.

Q. Did you inquire into or examine records pertaining to interchange of shipments between these two carriers?

A. Yes, we did.

Q. Will you comment on that, please.

Exam. Baumgartner: I think that is a little bit too broad, [fol. 855] Mr. Mueller.

Miss Kelley: I object.

Exam. Baumgartner: You are inviting just a rambling statement and not giving Miss Kelley a proper opportunity to object.

Mr. Mueller: I assume Miss Kelley is well able to take care of her client's interest.

Exam. Baumgartner: How can she if the witness just sits here and narrates a lot of things?

By Mr. Mueller:

Q. What did you discover as a result of looking at the billing forms used by the two carriers?

A. They were identical in form except for the names at the top which were different.

Exam. Baumgartner: What document was identical in format?

The Witness: The freight bills or pros were identical in size and form and format with the exception that the names at the top of the freight bills and pros were different.

By Mr. Mueller:

Q. Did you inquire into the divisions of revenue on interchanges between Gilbertville and Nelson?

A. Yes, I did.

Q. Will you state what you found?

Miss Kelley: I object. Did he check records as to this? I mean his inquiry, Mr. Examiner, I submit is not sufficient.

Exam. Baumgartner: Of whom did you make your inquiries, Mr. Shea?

[fol. 856] The Witness: Mr. Kenneth Nelson.

Exam. Baumgartner: You did make inquiries. This is not a question of inspecting records.

The Witness: And we inspected records too.

Exam. Baumgartner: You did both of them. All right.

Miss Kelley: Mr. Examiner, I object, then, as to his comments on the basis that it is hearsay, and as far as the records are concerned, I believe we have the right to have those records identified Mr. Shea claims he inspected.

Exam. Baumgartner: I agree with you as to part of your objection that you have got a right to state what records they were, but I can't see any hearsay so far.

Miss Kelley: It sounds like it to me.

Exam. Baumgartner: Well, maybe there will be some, but let's wait. He hasn't asked him what Mr. Nelson told him yet.

By Mr. Mueller:

Q. Did Mr. Nelson tell you how the revenues were divided?

Miss Kelley: I object.

Mr. Mueller: May he answer yes or no?

Exam. Baumgartner: Yes, you may answer yes or no.

The Witness: Yes, he told us.

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[fol. 858] By Mr. Mueller:

Q. Mr. Shea, what records did you look at with respect to the subject of interchanges between these two carriers?

A. We checked pros and interline settlement accounts.

Q. And what did you find?

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[fol. 859] Exam. Baumgartner: Well, you checked pros and interline settlement accounts, were they for the year 1898 or what?

The Witness: We looked at the records for the year 1954.

Exam. Baumgartner: All right.

By Mr. Mueller:

Q. What did you find with respect to which of the carriers was billing charges?

A. We found that the L. Nelson Company was doing all the billing of these interline shipments.

Exam. Baumgartner: Which interline shipments?

The Witness: On interline shipments between Gilbertville and L. Nelson.

By Mr. Mueller:

Q. Would L. Nelson do the billing regardless of which carrier delivered the shipment?

A. Yes.

Q. And that would be so with both prepaid and collect shipments.

A. Yes.

Q. Now I asked you before whether Clifford Nelson was present when you first arrived, and I believe your answer was no.

[fol. 860] A. No.

Q. Did he come to the terminal some time during the day?

A. He did.

Q. At what time of day?

A. Later, that afternoon.

Q. And did you talk with him on that afternoon?

A. I did.

Q. Did you ask him where Mr. Charles Chilberg was?

A. Yes.

Q. Did you question Mr. Clifford Nelson concerning your observations about the activities of his brother Kenneth in and about the Nelson terminal on that day?

A. I did.

Q. What was said?

Miss Kelley: I object.

Exam. Baumgartner: Now on that, I can't rule until I hear the answer as to whether or not it falls within the hearsay rule or without.

The Witness: I asked Clifford Nelson to explain to me how his brother Kenneth Nelson happened to be directing the operations of the L. Nelson & Sons Company's business, and also by what further right he was destroying teletype records which belonged to the L. Nelson & Sons Transportation Company.

By Mr. Mueller:

Q. Did he answer you?

Miss Kelley: I object to that because it clearly results [fol. 861] in hearsay, Mr. Examiner.



Exam. Baumgartner: I am not sure until I hear it now.

The Witness: He could not explain it. I mean by "he," Clifford Nelson could not explain the activities of his brother Kenneth.

Exam. Baumgartner: What about the other half of that double-barrel question?

By Mr. Mueller:

Q. What did he say about the teletype?

A. He couldn't explain any of the activities of his brother; he could offer no explanation.

Exam. Baumgartner: All right.

By Mr. Mueller:

Q. Now did you examine some of the corporate records of the L. Nelson & Sons Transportation Co. on that day, Mr. Shea?

A. I did.

Q. And did you look at the stock record book?

A. I did.

Q. And you have heard testimony here during the course of these proceedings on the subject of stock holdings in the L. Nelson & Sons Transportation Co.?

A. I have.

Q. Were the answers given consistent with what you observed?

A. They were.

Q. Mr. Shea, did the investigation and inspection which you began on November 9 extend over more than one day?  
[fol. 862] A. It did.

Q. Did you revisit the premises on the 10th of November?

A. We did.

Q. Did an incident occur in the course of your trip back to the Nelson terminal at Ellington which you now recall?

A. Yes.

Q. Will you tell us when and where the incident occurred.

Miss Kelley: I object. It is altogether too broad a question.

Exam. Baumgartner: I think it is preliminary.

Miss Kelley: I question the materiality of it, Mr. Examiner.

Exam. Baumgartner: How do we know it is material until we find out what this is all about? He has asked some preliminary questions.

Miss Kelley: The question should be pointed, Mr. Examiner, to limit him.

Exam. Baumgartner: He is asking some preliminary question; I think he is entitled to do it. Miss Reporter, will you please read the question.

(Question read as follows: "Will you tell us when and where the incident occurred.")

The Witness: On November 10, 1954 on Route 83 in Somers, Connecticut.

By Mr. Mueller:

Q. And what happened on Route 83?

[fol. 863] A. We came across an L. Nelson—

Q. By "we," whom do you mean?

A. LaCour and I.

Q. Were you in a government car?

A. We were. We came across an L. Nelson & Sons tractor semi-trailer which was leased to the Gilbertville Trucking Company. The vehicle was stopped at the side of the road.

Exam. Baumgartner: What was that, a tractor and trailer?

The Witness: Tractor semi-trailer unit.

By Mr. Mueller:

Q. And did you inspect the vehicle and hold a conversation with the driver at that time?

A. We did.

Q. And did you make out a form that is prescribed by the Interstate Commerce Commission for the use of its safety inspectors for such purpose?

A. I prepared an SS-31 vehicle inspection report, yes.

Q. And have you had cause to be prepared certain copies of that Form SS-31 report?

A. Yes, I made photostatic copies of the report myself.

Mr. Mueller: Mr. Examiner, I shall ask that this paper which I have handed to Mr. Shea be marked as an exhibit for identification purposes.

Exam. Baumgartner: This document has a heading, "Interstate Commerce Commission, Bureau of Motor Carriers, Driver-Equipment Compliance Check," dated [fol. 864] 11/10/54, which instrument will be marked as Exhibit No. 27 for identification, Witness Shea.

(Government's Exhibit No. 27, Witness Edward Shea, was marked for identification.)

By Mr. Mueller:

Q. Mr. Shea, is the written portion of this Exhibit No. 27 in your own handwriting?

A. It is.

Q. And will you further describe the exhibit, please.

A. This is an inspection report prepared on a vehicle leased to Gilbertville Trucking Co., Gilbertville, Mass., and the unit consisted of an International tractor, Company No. 97, Connecticut Registration F5965; the semitrailer was a Fruehauf semitrailer, Rhode Island Registration 4226, Carrier Company No. T82. The vehicle had paper placards attached to both doors of the tractor.

Exam. Baumgartner: Tell us, as you go along, where those items appear on this.

The Witness: The item about paper signs on the tractor is written lengthwise along here. It says, "Paper signs on tractor."

Exam. Baumgartner: Over to the left.

The Witness: On the left-hand side, written lengthwise of the paper, it says, "Paper signs on truck."

Exam. Baumgartner: Now I see some inscriptions above that on the left.

[fol. 865] The Witness: It says, "All D.P.U. plates Rhode Island, Massachusetts, Connecticut are L. Nelson," and then I listed D.P.U. plates Connecticut 7689, Massachusetts 23834, Rhode Island 5712. Those are all L. Nelson D.P.U. plates from the tractor.

Exam. Baumgartner: What does D.P.U. mean?

The Witness: Department of Public Utilities. An item on the opposite side says that the vehicle was owned by L. Nelson & Sons Co.

Exam. Baumgartner: You mean on the opposite margin?

The Witness: "Owned by L. Nelson & Sons Co., lease on vehicle."

Exam. Baumgartner: What do you mean by lease on vehicle?

The Witness: That the driver had a copy of the lease with him, and there is a note, "Bills 9667 N, 9685 N and 624, numbers of the bills for shipment he had on the truck."

Exam. Baumgartner: He had only three shipments on the truck?

The Witness: That is all it shows here. The driver's name was R. Claremont. It says, "Hours of service, Driver's log R. Claremont," and says he had no log that day, "None today." His doctor's certificate was O. K.

Exam. Baumgartner: What was that?

The Witness: Doctor's certificate O.K., he had it with him. Under "Remarks, miscellaneous freight, Rockville, [fel. 866] Conn. to Pittsfield, Mass.; Route followed, 83 to U.S. 5 to Holyoke, Route 9 to Pittsfield, Mass." Signed by the driver Claremont and signed by me.

Exam. Baumgartner: Do you want to carry it any further.

Mr. Mueller: I am going to question him further about the incident.

Exam. Baumgartner: Well, are you going to question him any more concerning the contents of this document at this time or not?

Mr. Mueller: I will later, Mr. Examiner.

Exam. Baumgartner: All right.

By Mr. Mueller:

Q. Now, Mr. Shea: at the time that you made up the Driver-Equipment Compliance Check, Exhibit No. 27, did you inspect the lading on the vehicle?

A. No, I did not.

Q. Did you examine the bills which you have enumerated?

A. Yes, I did; I took the numbers from them.

Q. And from that inspection, can you now tell us anything about the origin and destination of the freight that was on the vehicle?

A. Other than it was moving on this vehicle from Rockville, Conn. to Pittsfield, Mass., I can't tell you.

Q. Whose pros were these?

A. I can't answer that.

Exam. Baumgartner: By that, you mean which company [fol. 867] issued them, I presume.

By Mr. Mueller:

Q. You said there was a lease on the vehicle.

A. There was; the driver had a copy of the lease with him.

Q. Can you now tell us as to the interchange points specified on that lease or what point the equipment was taken over by Gilbertville Trucking?

Miss Kelley: I object to the question. It doesn't appear he has a copy of the lease.

Exam. Baumgartner: Well, he inspected it and if you want to test his memory about it on cross examination, you may do so.

The Witness: Interchange point shown was Monson, Mass.

Exam. Baumgartner: What do you mean?

The Witness: Interchange, where the interchange between L. Nelson and Gilbertville was effected was at Monson, Mass., according to the lease.

Exam. Baumgartner: Now you mean that was the point at which the vehicle came under lease to Gilbertville?

The Witness: Yes.

By Mr. Mueller:

Q. What about the interchange point as to the shipments, Mr. Shea; what did the pros show as to the interline of shipments?

Miss Kelley: I object to the question.

Exam. Baumgartner: Why do you object, Miss Kelley?

[fol. 868] Miss Kelley: Mr. Shea has already said he knows nothing about these pros outside of the numbers that he took off.

Exam. Baumgartner: Well, he can say again he doesn't know.

The Witness: I don't know.

By Mr. Mueller:

Q. Well, Mr. Shea, what was the point of origin of the lease for Gilbertville?

Exam. Baumgartner: What did the lease show with respect to when the vehicle came subject to the lease, at what point?

The Witness: Papers that the driver had with him showed that he was supposed to go through Monson, Mass.

Exam. Baumgartner: Well, what papers?

The Witness: As I recall, it was the lease.

Exam. Baumgartner: Well, do you mean that that is the point at which the lease with respect to that vehicle became effective?

The Witness: As I recall it.

By Mr. Mueller:

Q. Well, now, can you describe North Somers, Connecticut in respect to its geographic location, Mr. Shea?

A. I can.

Q. What is it?

A. It is about 30 miles north of Ellington of the L. Nelson terminal and it is right on the Massachusetts-Connecticut line. It is just south of the Massachusetts-Connecticut line.

[fol. 869] Q. How far would it be from Monson, Mass.?

A. I would say about 15 miles.

Q. In which direction did you observe this vehicle to be proceeding, Mr. Shea?

A. It was going north. When we saw the vehicle, it was stopped; it was facing north.

Q. Did you in any way ascertain between what points that vehicle was operating in the transportation of the



shipments which you have enumerated as being covered by these bills?

A. Yes, I did.

Q. Tell us what you ascertained.

A. I ascertained that the vehicle was moving on Route 83 to U.S. 5, north on U.S. 5 to Holyoke, then west on Route 9 to Pittsfield, Mass.

Q. And where would that route be with respect to Monson, Mass.?

A. It did not go through Monson, Mass.

Q. Now, Mr. Shea, after this observation of this vehicle, did you and Mr. LaCour return to Ellington?

A. We did.

Q. Did you, on that day, talk with any drivers?

A. We did.

Miss Kelley: What date was this?

Exam. Baumgartner: November 10, 1954.

By Mr. Mueller:

Q. Did you interview a driver named Lambert?  
[fol. 870] A. Lambert?

Q. Lavallee?

A. Driver Lavallee, yes.

Exam. Baumgartner: But not Lambert?

The Witness: Yes, I talked with a driver Lambert.

By Mr. Mueller:

Q. Now, directing your attention first to driver Lambert, did you observe him in and about a motor vehicle?

A. Yes, he was loading a vehicle at the Ellington terminal of L. Nelson.

Q. Was that vehicle placarded in any way?

A. Yes, it carried paper placards showing that it was leased to the Gilbertville Trucking Company.

Q. Under these paper placards were there some instructions indicating that it was owned by some one else?

A. It was owned by L. Nelson & Sons.

Q. Did you discuss with driver Lambert his daily operations?

A. He said his daily—

Miss Kelley: I object; that calls for a yes or no answer.

Exam. Baumgartner: Yes, that is right.

The Witness: I did.

By Mr. Mueller:

Q. What did he tell you?

Miss Kelley: I object, being hearsay.

Exam. Baumgartner: Sustained.

By Mr. Mueller:

Q. Did you inspect the vehicle that Mr. Lambert was [fol. 871] driving on that day?

A. I did.

Q. And did you examine the load?

A. I did.

Q. And could you tell us from this inspection anything about the origin and destination of his trip?

A. The inspection of his load and documents he carried indicated that he was going to Danbury, Conn. and return to Rockville, Conn.

Q. Now where is Danbury, Mr. Shea, in respect to Rockville?

A. I should say it is about a hundred miles west of Rockville. It is well over towards the New York line, as I recall it.

Q. Now you have mentioned driver Lavallee.

A. Yes.

Q. Did you also examine the vehicle that he was working on or in or about?

A. He had a straight truck which had no placards on it; it was owned by Gilbertville Trucking Company and inspection of the load and documents indicated that he was going to Hartford, New Haven and Bridgeport, Connecticut.

Q. And where would those points be in respect to Rockville?

A. Hartford is about 17 miles west of Rockville and New Haven is then about 50 miles south of Hartford and Bridgeport is 30 miles west of New Haven, approximately.

[fol. 879] Direct examination (continued)

By Mr. Mueller:

Q. Mr. Shea, in conclusion of yesterday's testimony, we were engaged in questioning you concerning a visit to the Ellington, Conn. terminal of the Gilbertville Trucking Company and L. Nelson & Sons Transportation Company on November 10, 1954, if I remember correctly. I would like to inquire whether, in the course of that second visit on November 10, 1954, you inspected additional Gilbertville [fol. 880] records. Will you please answer yes or no.

A. Yes.

Q. Specifically, did you examine drivers' logs?

A. No.

Q. Why not?

Miss Kelley: I object.

The Witness: They were not—

Exam Baumgartner: I think the witness may answer. I can't see a basis for the objection.

Miss Kelley: Well, his mental process is not evidence, Mr. Examiner. He did not examine drivers' logs.

Exam. Baumgartner: Well, it might not involve only mental processes. It may involve some other matters. You may answer, Mr. Shea.

The Witness: We did not inspect any Gilbertville Trucking Company drivers' logs.

By Mr. Mueller:

Q. And why not?

A. There were none available for our inspection.

Q. Did you make a demand for the production of Gilbertville drivers' logs on that day?

A. Yes.

Q. Of whom did you make that demand?

A. Mr. Kenneth Nelson.

Q. Did he make any response to that demand?

Miss Kelley: I object, hearsay.

[fol. 881] The Witness: Yes.

Exam. Baumgartner: You inquired of whom?

The Witness: Kenneth Nelson.

Exam. Baumgartner: And this was at L. Nelson & Sons office.

The Witness: In his office, upstairs in the Nelson building.

Exam. Baumgartner: Did you ask for Nelson drivers' logs?

The Witness: No, I asked Kenneth to produce Gilbertville Trucking Company drivers' logs.

Exam. Baumgartner: Well, you made a demand of him then and there.

The Witness: That is right.

Exam. Baumgartner: All right, you may answer.

The Witness: He said they were at the Gilbertville Trucking Company terminal at Gilbertville.

[fol. 882] By Mr. Mueller:

Q. Now, Mr. Shea, did you examine the Gilbertville time cards on that day, November 10, 1954?

A. I did.

Q. And I will ask you whether or not any of those cards showed driving of over 12 hours.

A. They did.

Q. You are, of course, acquainted with the Commission's rules requiring the preparation of drivers' logs.

A. I am.

Q. Just for the record here, I will ask you whether or not the rules require the preparation of a driver's log for trips over 12 hours, even though a trip may be less than 50 miles in length?

A. That is correct.

Exam. Baumgartner: What does this card show, driving time of over 12 hours?

The Witness: No, the cards would show total daily on-duty time, and the rule is the driver cannot be on duty more [fol. 883] than 12 hours a day.

By Mr. Mueller:

Q. That day, namely, November 10, 1955, did you see a list posted anywhere in the Nelson offices of Nelson drivers?

A. Yes, I did.

Q. And in connection with your examination of Gilbertville records on that day, did you discover the names of any of these Nelson drivers in the Gilbertville records?

A. Yes, I did.

Exam. Baumgartner: That was on the posted list?

The Witness: A seniority list in the drivers' room of L. Nelson & Sons drivers.

Exam. Baumgartner: What did you say—

The Witness: On that list were some of the Gilbertville drivers.

By Mr. Mueller:

Q. You say some of them, can you say how many?

A. Five or six.

Q. Did you discuss the purchase of motor vehicle equipment with Kenneth Nelson on Wednesday, November 10, 1954?

A. I did.

[fol. 887] Q. The question is whether you asked Mr. Nelson concerning the purchase of any vehicles from L. Nelson & Sons Transportation Company for Gilbertville Trucking Company.

A. I did.

Q. And what did he say?

Miss Kelley: My objection is running, of course.

Exam. Baumgartner: Oh, yes, that is understood, Miss Kelley.

The Witness: He said that he had purchased six vehicles, four tractors and two straight trucks and that he still owed L. Nelson for two tractors.

By Mr. Mueller:

Q. By "he," you mean as a representative of Gilbertville?

A. That is right.

Q. Now, Mr. Shea, did you discuss equipment repairs with Mr. Kenneth Nelson on that day; just please answer yes or no?

A. Yes.

Q. And I will ask you whether you have heard the testimony of Mr. Kenneth Nelson in this proceeding and whether [fol. 888] or not what he told you on November 10, 1954 was consistent with his testimony in this proceeding.

Exam. Baumgartner: Well, now, Mr. Mueller, I don't think it is up to this witness to determine the consistency or inconsistency of the two statements. I think what that witness should do is testify what statements were made at the time he talked to Mr. Kenneth Nelson.

Mr. Mueller: Thank you, Mr. Examiner, I was merely trying to shorten up this examination.

Exam. Baumgartner: I know, but it isn't for him to determine whether the statements were consistent or inconsistent; that is for the Commission.

By Mr. Mueller:

Q. Mr. Shea, on November 10, 1954, what did Mr. Kenneth Nelson tell you with respect to the repairs to Gilbertville equipment?

Miss Kelley: Objection, being hearsay.

Exam. Baumgartner: On the same basis as the prior objection?

Miss Kelley: Yes, sir.

Exam. Baumgartner: The witness may answer subject to your objection.

The Witness: Mr. Kenneth Nelson said that all repairs to Gilbertville vehicles were made in L. Nelson shops at Rockville, Conn.



By Mr. Mueller:

Q. Did he tell you about the basis for the billing?

[fol. 889] A. The Gilbertville Company was to be billed for repairs at actual cost of parts and labor, plus 10 per cent profit.

Q. On the occasion of your visit to the Gilbertville terminal, to which you have previously testified, did you observe the existence of any repair shops?

A. There were none at Ware, Mass.

Q. Now, Mr. Shea, after your visit of November 10, 1954 to Rockville, did you return to your headquarters?

A. I did.

Q. And subsequently, on November 12, 1954, did you make a further investigation?

A. I did.

Q. Where?

A. On November 12, 1954, about 8:10 a.m., I visited the Newton terminal of the L. Nelson & Sons Transportation Co.

Q. Did you talk with any individuals there?

A. I talked with Mr. Kenneth Call, day foreman, and a Larry McCue, night dispatcher.

Q. Did you examine any manifests or records on that day?

A. I did.

[fol. 898] By Mr. Mueller:

Q. Now, Mr. Shea, can we go back for a moment to the occasion of your visit to the Ware terminal of Gilbertville, which, I believe, you said was October 22, 1954. Did you talk to Mr. Kashady on that day, just answer yes or no?

A. Yes.

Q. Did you make a request for permission to examine the stock record book of Gilbertville Trucking Company on that day?

A. I did.

Q. Was it produced for your inspection?

A. It was not.

Q. Did you ask leave to examine the accounting records?

A. I did.

Q Accounts receivable, things of that kind.

A. I did.

Q. Were you granted that permission?

A. Those records were not available for my inspection.

Exam. Baumgartner: What do you mean by that, they were not available? Do you mean they were not made available?

The Witness: I was told they were not available for my inspection by Mr. Kashady.

Exam. Baumgartner: Were you told why they were not available for your inspection?

The Witness: Yes, I was.

[fol. 899] Exam. Baumgartner: What was the reason?

The Witness: Because they were in L. Nelson's terminal at Rockville, Conn.

Exam. Baumgartner: Who told you that?

The Witness: Kashady.

Exam. Baumgartner: At that time?

The Witness: Right that day, yes.

By Mr. Mueller:

Q. Now on the occasion of your subsequent visit to Ellington, Conn. on November 9 and 10, 1954, did you ask permission of any one to inspect the stock record books of Gilbertville Trucking Company?

A. I did.

Q. And what was the result of that request?

A. I did not see the stock record books or the minutes of the stockholders' meetings either.

Q. Were you told where they were?

A. Yes.

Q. Please state what you were told.

A. Mr. Kenneth Nelson told me—

Miss Kelley: I object as hearsay.

Exam. Baumgartner: Well, this is the same pattern as the discussion we had before, the response made to an official request by an officer in the performance of his duty. You may answer.

The Witness: Mr. Kenneth Nelson told me they were in [fol. 900]. Mr. Parashinsky's office, his attorney, in Springfield, Mass.

By Mr. Mueller:

Q. Did Mr. Kenneth Nelson tell you or did you ascertain what his position was in the corporation?

A. He told me he was president.

. . . . .

[fol. 901] By Mr. Mueller:

Q. Now, Mr. Shea, do you recall inspecting a vehicle of L Nelson & Sons on May 12, 1955 at a point in Rhode Island?

A. I do.

Q. And as you inspected that vehicle, did you make some notes on a form provided by the Interstate Commerce Commission?

A. I prepared an SS-31 report.

Q. And did you have copies of that report prepared for submission here?

A. Yes, I made photostatic copies of the report.

Mr. Mueller: Mr. Examiner. I respectfully request that the report referred to be marked for identification.

Exam. Baumgartner: The report just referred to, Driver-Equipment Compliance Check, dated May 12, 1955, will be marked Exhibit No. 29 for identification, Witness Shea.

(Government's Exhibit No. 29, Witness Edward Shea, was marked for identification.)

By Mr. Mueller:

Q. Now, Mr. Shea, referring to Exhibit No. 29, and refreshing your recollection therefrom, will you tell us the name of the carrier whose vehicle was inspected?

A. L Nelson & Sons Company, Rockville, Conn.

Q. And did that vehicle appear to be marked as the equipment of L Nelson & Sons Transportation Company?

A. It was owned by L Nelson & Sons Company.

Exam. Baumgartner: Just a minute, how do you know it [fol. 902] was owned by Nelson?

The Witness: By the name and the registration certificate the driver carried. The name was displayed on the side of the tractor and the registration certificate.

Exam. Baumgartner: L Nelson & Sons was shown as the owner?

The Witness: That is right, registered in their name.

By Mr. Mueller:

Q. And does this Exhibit No. 29 contain a description of the vehicle in question?

A. It does.

Q. By the way, where did this inspection occur, Mr. Shea?

A. During a road trip on Route 146 at North Smithfield, Rhode Island, which is near the Massachusetts-Rhode Island state line.

Q. Were you accompanied by other people in that trip?

A. There were other Commission employees there and Rhode Island State Police, Rhode Island D.P.U. Inspector and Inspector for the Registry of Motor Vehicles.

Q. Can you enlighten the Examiner a little bit about the procedure in making checks such as you are now describing?

A. Yes. These road checks are surprise checks run periodically by the Commission's employees to inspect vehicles moving in interstate commerce to determine if they are complying with the safety regulations and other regulations of the Commission.

Q. And you are assisted in these procedures by State personnel, police officers and so on.

A. They are there to stop the vehicles. Usually we proceed to inspect the vehicles.

Exam. Baumgartner: Again you are getting over into this field which is the basis for the motion, and I would prefer that that be deferred until we specifically take up the matters to be considered in furtherance of the motion.

By Mr. Mueller:

Q. Along the left-hand margin, I notice certain items such as brakes, the lighting devices and reflectors. Do you

care to tell us about some notations in respect to those two items?

A. Item under reflector indicates the right rear was broken.

Exam. Baumgartner: Where is that indicated?

The Witness: That is about half way down the form.

By Mr. Mueller:

Q. And over in the right-hand margin, opposite the remark you just made, appears something else.

A. Doctor's certificate O.K., which indicates that the driver had a doctor's certificate with him in good order.

Q. By the way, Mr. Shea, these entries you are referring to are in your own handwriting.

A. This is my own handwriting, yes.

Q. And they were made at the time of this inspection.

A. While I was inspecting the vehicle.

Q. And now in the next box there is an item Parts and Accessories, do you care to note any comment there?

A. Yes, I made a note that the rocker bearing on the bed plate on the tractor was loose and should be tightened.

[fol. 904] Exam. Baumgartner: Now will you please tell us what all these check marks mean.

The Witness: The check marks indicate that the items were inspected and found in good operating condition.

Exam. Baumgartner: Now is that true of this report that was submitted for identification as Exhibit-27 yesterday?

The Witness: Yes. The check marks indicate items that were checked and found in satisfactory compliance.

By Mr. Mueller:

Q. Now in the next box, Emergency Equipment, I note a number of check marks and then there is a comment over on the right-hand corner.

A. Under the item Spare light bulbs, I made an entry, no seal beam unit.

Q. What does that mean?

A. That the vehicle was not equipped with a spare headlight unit to be used in case one of the headlights burned out.

Q. Who was the driver of this equipment; did you note his name?

A. The driver gave the name of V. J. Shewokis.

Q. And I note a comment there on the subject of logs.

A. His log was in good condition.

Q. Now down in the box headed Remarks at the foot of the exhibit, there are certain notations. Will you tell us what they signify.

A. On inspecting the load on the vehicle, the driver [fol. 905] showed me three pros covering shipments of spools. These were L Nelson & Sons pros, P22202, P22178 and P22081.

Q. Did you examine the load?

A. I checked the load against these papers the driver carried.

Q. Did you find those items covered by those pros on the vehicle?

A. I did.

Exam. Baumgartner: Now just at that point, what kind of spools were those?

The Witness: I don't know, I didn't open the boxes. I don't know whether it is spools there or not.

By Mr. Mueller:

Q. Now in addition to the items covered by the pros just mentioned, Mr. Shea, did you discover any other shipment on the vehicle?

A. Yes, near the tailgate I found a box for which there were no papers on the vehicle when I questioned the driver.

Q. And do your notes under the heading of Remarks refer to that item?

A. Yes. I later found in the driver's compartment a Gilbertville pro.

Q. Just a minute, Mr. Shea, did you ask the driver for permission to examine a bill of lading or other shipping paper covering that box that you have just referred to?

A. I did.



Q. With what result?

[fol. 906] A. Said he didn't have any.

Q. Did you later find a pro or bill of lading covering that shipment in or about the vehicle?

A. I did.

Q. Will you tell us about it?

A. Well, inspecting the cab of the vehicle looking for fire extinguishers, fuses, flares and flags, I noticed in an open bag on the floor of the compartment a Gilbertville pro which I picked up and found it covered the shipment out near the tailgate of the truck, and that pro was a Gilbertville pro R16869, covering a shipment of one case of machine rolls from the Elmvale Dye Works, Pittsfield, Mass. to the M. W. Bonn Roller Works, Fishville, Mass.

Exam. Baumgartner: What was that you say, a case of machine rolls?

The Witness: That is right.

Exam. Baumgartner: Do you know what kind of machinery?

The Witness: No, I do not.

Exam. Baumgartner: You don't know whether it is textile machinery or what?

The Witness: No, I do not know.

By Mr. Mueller:

Q. The remarks you have just made, I take it, were taken from the manner in which the shipment was described on the bill of lading.

A. I copied it right off the pro, the description on the pro.  
[fol. 907] Miss Kelley: It is noted that was an intrastate shipment.

By Mr. Mueller:

Q. Where did you inspect this vehicle, Mr. Shea?

A. In Rhode Island, North Smithfield, Rhode Island.

Q. I notice two signatures at the bottom of Exhibit 29, Mr. Shea.

A. That is driver Shewokis' signature and my signature on the bottom of the report.

Exam. Baumgartner: Why did Shewokis sign this?

The Witness: We gave him a copy of this. He signs for receipt of the copy received by him. He gets the pink copy.

Miss Kelley: Mr. Examiner, at this point, can we ask Mr. Shea what was the weight of the box that he was referring to?

Mr. Mueller: Mr. Examiner, I submit that is a proper subject of cross examination.

Exam. Baumgartner: Well, if you have got it there, give it to us now, Mr. Shea.

The Witness: It was not so indicated on the bill and I didn't get it.

By Mr. Mueller:

Q. Now, Mr. Shea, do you recall visiting the Newton terminal of L Nelson & Sons on or about November 8, 1955?

A. I do.

Q. Did you meet with any personnel there?

[fol. 908] A. I did.

Miss Kelley: I object. Isn't this repetition, Mr. Mueller? I think you went into this before.

Exam. Baumgartner: This is a year later, Miss Kelley, as I understand it, this is November '55 now. The prior one was November '54.

Mr. Mueller: Prior testimony related to November 12, 1954 insofar as the Newton terminal was concerned. We are now addressing ourselves to November 8, 1955.

By Mr. Mueller:

Q. Did you find Clifford Nelson there?

A. Yes.

Q. Did you find a Kenneth Call there?

A. Yes.

Q. And was there a driver there?

A. Yes, there were several drivers there.

Q. How about a Mr. McCue?

A. I saw a Mr. McCue there.

Q. How about a Mr. William Smith?

A. Yes.

Q. Did you ascertain his title?

A. Assistant terminal manager for L Nelson & Sons.

Q. Did you observe any motor equipment at the premises at Newton, Mass. on that day?

A. When I first arrived there, I observed a Gilbertville tractor semitrailer standing loaded in the yard.

[fol. 909] Q. That tractor and trailer bore the name of Gilbertville, did it, in permanent fashion?

A. No.

Q. With the name and number painted on the side.

A. The combination consisted of an L Nelson & Sons International tractor No. 66 and a stripped semitrailer Gilbertville truck WT111.

Q. Now, leaving the equipment for the moment, Mr. Shea, did you observe Mr. Clifford Nelson in the act of employing a driver on that day?

Miss Kelley: I object to that question. It definitely is leading.

Exam. Baumgartner: I guess it is a little leading all right, Mr. Mueller.

By Mr. Mueller:

Q. Well, did you observe the activities of Mr. Clifford Nelson on that day?

A. I did.

Q. Were you a witness to the employment of a driver?

Miss Kelley: I object; it is a leading question.

Exam. Baumgartner: Just ask him what he observed.

By Mr. Mueller:

Q. All right, Mr. Shea, tell us what you saw and heard.

A. I saw Mr. Clifford Nelson hire a driver, Herbert Erb, of 34 Putnam Street, Somerville, Mass.

[fol. 911] By Mr. Mueller:

Q. Did you observe the driver Herbert Erb on the vehicle you have described after he was hired?

A. I did.

Q. Now you have stated that the tractor—

Exam. Baumgartner: Just a minute, don't you want to pursue that a little bit further? His merely being on the vehicle doesn't mean much.

By Mr. Mueller:

Q. Under what circumstances and when and where did you observe him?

Exam. Baumgartner: What was he doing on the vehicle, if anything?

The Witness: I observed this man come in and found out later his name was Herbert Erb. I saw him answer questions put to him by—

Exam. Baumgartner: No, listen, Mr. Shea; we are trying to find out what you saw that man doing on that vehicle.

The Witness: He drove it out of the yard.

Exam. Baumgartner: That is what we want to know.

By Mr. Mueller:

Q. When was that, Mr. Shea?

A. Later on the same morning.

Q. Now before that was done, before that vehicle left the [fol. 912] yard, were any placards affixed to the tractor?

A. Yes. Just before it left, they suddenly affixed a Gilbertville Trucking Company placard on each side of the tractor and a lease for the unit was prepared in my presence from Nelson to Gilbertville. That was prepared while I was watching them.

Q. Who signed the lease?

A. Mr. Call signed it for Gilbertville Trucking Company and Clifford Nelson signed the lease for L. Nelson & Sons.

Q. Now did you inspect the lading of that vehicle?

A. Yes, I did.

Q. Did you see any one hand any freight bills to the driver?

A. Yes.

Q. And did you have an opportunity to see those freight bills?

A. Yes.

Q. And after you saw them, what, if anything, did you do?

A. I checked the bills against the shipments on the truck

and I found that there was a shipment of 14 bales of silk on this truck for which the driver had no papers.

Q. Did you call your observation to the attention of any one there?

A. I called it to the attention of Mr. Clifford Nelson.

Q. What, if anything, did he do?

A. He telephoned New York.

Q. And after that telephone call was made, what else [fol. 913] did you observe?

A. Upon receipt of the information by telephone from New York they prepared a Gilbertville pro or freight bill No. 3485 covering this shipment.

Q. Now referring again to the freight bills that you previously mentioned, were those Gilbertville freight bills or L. Nelson freight bills, if you recall?

Miss Kelley: I object to the leading questions.

Exam. Baumgartner: Well, I think you have been pretty leading, in part at least.

Mr. Mueller: I will try to restrain myself, Mr. Examiner. I am trying to get on with this.

Exam. Baumgartner: Yes, I realize that.

Miss Kelley: I objected to the question. I understood you sustained my objection on the grounds it was leading.

Exam. Baumgartner: Yes, I told him it was rather leading. Rephrase the question, Mr. Mueller.

By Mr. Mueller:

Q. In whose name were the pros prepared which you first examined?

A. I don't recall.

Q. Did you inquire as to the matter of a medical certificate for the driver Erb?

A. I did.

Exam. Baumgartner: You mean doctor's certificate?

The Witness: Yes.

[fol. 914] By Mr. Mueller:

Q. Was there a doctor's certificate for this man?

A. There was not.

Q. Did you call that omission to the attention of any one there?

A. Yes, Clifford Nelson.

Q. But the driver, nevertheless, left on a trip.

A. I saw him drive out of the yard.

Q. Now on this day, Mr. Shea, namely November 8, 1955, did you have occasion to examine manifests prepared by or for L. Nelson & Sons Company and Gilbertville Trucking Company at the premises at Newton?

A. I did.

Q. Have you any comment as to the form which those documents took?

A. The manifests were identical that were used by the two companies with the exception that the Gilbertville Trucking Company manifest had the name of L. Nelson at the top scratched out and a Gilbertville Trucking Company name typed in on the manifest.

Q. Was there anything else that you observed with respect to the manifest which you inspected?

A. Yes. The manifests for the L. Nelson & Sons' loads were very complete, giving all the information, including the number of the trailer on which the load would leave [fol. 915] Newton and the trailer number would show also. However, on the manifests of Gilbertville, they were very sketchy and no information as to the trailer number on which it left the terminal.

Q. While you were there, Mr. Shea, did you ask leave to examine drivers' logs?

A. Yes, I did.

Q. Did you examine any?

A. No.

Q. Why not?

A. Because there were none kept at this terminal.

Q. What about doctors' certificates, did you examine any of those?

A. Relative to Gilbertville Trucking Company, there were no logs, no doctors' certificates, no bills of lading, no statements, no interline receipts there for my inspection.

Q. Now, Mr. Shea, on the occasion of your previous visit to the terminal at Newton in 1954, did you observe a teletype machine?

A. I did.



Q. Now on November 8, 1955, did you observe a teletype machine at that terminal?

A. I did not.

Q. Now did you observe any other vehicles on the day in question?

A. Yes, I did.

[fol. 916] Exam. Baumgartner: Just a minute, which day in question, '54 or '55?

By Mr. Mueller:

Q. November 8, 1955.

A. Yes, I did.

Q. Can you now identify the vehicle that you observed?

A. Yes. Around noon time I observed an L. Nelson & Sons truck and semitrailer pull into the yard. This combination was an L. Nelson tractor 114 and an L. Nelson trailer T83.

Q. Did you ask permission to see the driver's log book?

A. Yes.

Q. With what result?

A. The driver had no log book with him.

Q. What, if anything, did you observe with respect to shipping papers?

A. Before I got a chance to look at the shipping papers, Mr. Clifford Nelson took the papers and went in the office of the building while I was talking with the driver.

Q. Did you subsequently ask Mr. Nelson for permission to inspect those shipping papers?

A. I did.

Q. And with what result?

A. He showed me two pros, M4125 and P25777.

Q. Can you tell us what those covered?

A. Those are L. Nelson pros, one 25777 covered a shipment of 20 bales of thread waste from Philadelphia Dye [fol. 917] Works, Philadelphia, Pennsylvania to United Waste Company, East Dedham, Mass.

Q. Did you observe that shipment on the vehicle?

A. I did.

Q. Now what did pro 4125 cover?

A. That was a shipment of 5 bales of rags from the Glaser-Jaffee Wool Stock, Inc., New York, N. Y. to Horte

Dupree & Sawyer, care of Joseph Neubentler Company of Methuen, Mass.

Q. When you inspected pro No. M4125, did you observe some penciled notations on it?

A. I noticed a penciled notation stating "five cartons unfinished pieces" had been written in under the other shipment.

Q. Did you observe a shipment meeting that description on the vehicle?

A. There were 5 cartons on the load without any shipping papers.

Q. Did you make any inquiry concerning who made the penciled notation on pro M4125 that you have just referred to, answer yes or no?

A. I did.

Q. Of whom did you inquire?

A. Driver Nusuata.

Q. What did you ask him?

A. If he had written that penciled notation on the pro.

Q. What was his answer?

Miss Kelley: I object.

[fol. 918] The Witness: No.

Exam. Baumgartner: Still want to object?

Miss Kelley: Might as well be consistent.

Exam. Baumgartner: The answer is no.

By Mr. Mueller:

Q. Did you also inquire of Mr. Clifford Nelson?

A. I asked Clifford Nelson if he wrote it.

Q. What was his answer?

[fol. 920] The Witness: Clifford Nelson's answer was, "I don't think I have to answer that."

By Mr. Mueller:

Q. Did you make any further efforts to find out something about the origin and destination of that shipment?

A. I did.

Q. What did you do and what occurred?

A. A little while later I was checking manifests and I

discovered a piece of yellow letter paper about 8 by 10½ inches, which was written at the top in pencil, "Driver L Nusuata, tractor 114, trailer T83," and below that was written a description of the shipments moving on pro M4125 and P25777. There were three other items listed on this yellow sheet, which apparently covered the 5 cartons for which I had no papers.

Q. Now what happened with respect to that yellow paper, Mr. Shea?

A. I finally determined that this yellow sheet was written in Mr. Smith's handwriting but he was not present at that time. He had left the terminal.

Q. Did you show the yellow paper to any one?  
[fol. 921] A. I then showed the yellow sheet to Clifford Nelson.

Q. And did he take it from you?

A. He took it and walked away with it.

Q. Did you later ask him for it?

A. I did.

Q. With what result?

A. He said he had already—

Miss Kelley: I object.

Mr. Mueller: He can certainly say what was done.

Exam. Baumgartner: Go ahead and say what happened then.

Miss Kelley: Here he is asking for conversation.

Mr. Mueller: I am not, Mr. Examiner.

(Question read.)

Mr. Mueller: May we have the answer, Mr. Examiner?

Exam. Baumgartner: You may answer, subject to Miss Kelley's objection.

The Witness: He said he had already returned it to me.

By Mr. Mueller:

Q. What did you say then?

A. I told him he had not returned it to me and I asked him again to show it to me.

Q. Did you get it?

A. I never was able to lay my hands on that document again.

Q. Did you watch the unloading of that trailer, Mr. Shea?

A. No, I didn't.

Q. What happened?

[fol. 922] A. I waited until after 6 o'clock and they didn't unload the trailer so I left.

Q. Did you return the next day?

A. I did.

Q. And were you able to see the cartons in question?

A. Yes, the next morning at 6:30 a.m. I found two of those cartons on the platform.

Q. What else did you observe?

A. There were no papers available for these two cartons. One was marked consigned to, Horeman & Gumman, 75 Kneeland Street, Boston, Mass. It was also marked via Gilbertville Trucking Company. Name of the consignee on the second one was Theodore Kaplan, 124 Kneeland Street, Boston, Mass.

Q. Did you endeavor to ascertain who the shipper was?

A. I did.

Q. With what result?

A. I could not get the information.

Q. Did you know what was in the cartons, Mr. Shea?

Miss Kelley: I object to the question.

The Witness: I do not know what was in the cartons.

Exam. Baumgartner: He is just simply asking if he knew something.

(Discussion off the record.)

By Mr. Mueller:

Q. Now, Mr. Shea, I will direct your attention to another date, namely May 2, 1956. I will ask you whether on that [fol. 923] day you were engaged in making certain road checks.

A. I was.

Q. And was Mr. LaCour with you?

A. He was.

Q. At that time?

A. He was.

Q. Were other members of the Commission staff there?

A. Yes.

Q. And where did this road check occur?

A. On Route 15 in Union, Connecticut, at the scale house, the State Police weighing station.

Q. And were certain State Department of Public Utilities officials and State Police present?

A. There were State Police officers there, there was an Inspector from the Connecticut Department of Public Utilities and also an Inspector present from the Department of Motor Vehicles, in addition to the Commission's employees.

Q. And in the course of that road check, did you have occasion to inspect one or more vehicles operated by either of the principals to this proceeding?

A. I did.

Q. And in the course of those inspections, did you prepare Form SS-31 memoranda, of the type heretofore mentioned on this record?

[fol. 924] A. I did, but it should be noted this is a new form. It is a longer form than the other one.

Exam. Baumgartner: It is still known as Form SS-31?

The Witness: Still known as Form SS-31.

Exam. Baumgartner: What is the date of the new form?

The Witness: I think this went into effect in 1955.

Exam. Baumgartner: I mean, underneath the form number, isn't there a date?

The Witness: No, just Form SS-31, 1955; went into effect late in '55.

By Mr. Mueller:

Q. And in connection with the inspection of these vehicles, did you also have occasion, in certain instances, to examine shipping papers in the possession of the drivers?

A. I did.

Q. Will you state whether or not in some instances the drivers had in their possession duplicate copies of such shipping papers.

A. They did.

[fol. 926] Exam. Baumgartner: Did you ask for permission to make copies?

The Witness: Yes.

By Mr. Mueller:

Q. And was it granted?

A. Yes.

Q. By some one?

A. Yes.

Q. Under what circumstances was that done?

Miss Kelley: I object.

Exam. Baumgartner: What is the basis of your objection?

Miss Kelley: You have said, Mr. Examiner, that evidence on my motion will be heard later.

Exam. Baumgartner: Well, I think Miss Kelley is right on that part of it. He has gotten permission, he said, to examine the records. Now let's proceed from there to show what happened, if that is what you are after.

By Mr. Mueller:

Q. Mr. Shea, have you prepared copies of SS-31 forms referred to to be offered as exhibits in this proceeding?

A. I did.

Q. And have you also prepared copies, in certain instances, of certain shipping papers which had relation to the inspection incident covered by the SS-31 form?

[fol. 927] A. I did.

Q. Mr. Shea, I am going to hand you two sheets of paper which we will ask to have marked for identification as Exhibit No. 30.

Exam. Baumgartner: You want both documents to appear as one exhibit?

Mr. Mueller: I thought it would be convenient to do so, Mr. Examiner.

Exam. Baumgartner: One of these documents to which reference is made is a Gilbertville Trucking Co., Inc. Delivery Receipt 67848. The other is a Form SS-31, 1955, entitled Driver-Equipment Compliance Check of the In-



terstate Commerce Commission, dated 5/2/56, and these two documents will be marked Exhibit No. 30 for identification, Witness Shea.

(Government's Exhibit No. 30, Witness Shea, was marked for identification.)

By Mr. Mueller:

Q. Now, Mr. Shea, will you look at the second sheet of Exhibit No. 30, marked for identification, which is Interstate Commerce Commission, Bureau of Motor Carriers, Driver-Equipment Compliance Check, and indicate the name of the carrier, the date, the time and place covered by it.

A. This vehicle tractor semitrailer owned by L Nelson & Sons, Rockville, Connecticut. Inspected May 2, 1956, about 11:20 a.m. on Route 15 in Union, Connecticut.

[fol. 928] Q. And what equipment is covered thereby?

Exam. Baumgartner: I think he stated that, Mr. Mueller. He said tractor and trailer, I think, belonging to L Nelson & Sons.

Mr. Mueller: Yes, but I thought he might further identify it.

The Witness: International tractor, No. 99, and a Gindy semitrailer No. TO153.

By Mr. Mueller:

Q. And does the exhibit indicate the name of the driver?

A. Driver's name, Martin.

Q. Was there a comment with respect to the driver's log?

A. He had none with him.

Q. What was the comment with respect to a doctor's certificate?

A. He had one dated 1/2/54.

Q. Now, Mr. Shea, skipping over the notations appearing immediately below the box wherein the description of the vehicle appears, to which you have just testified, what does the exhibit show with respect to Brakes?

A. All items are checked as far as brakes are concerned.

Exam. Baumgartner: That means?

The Witness: That the parking brake was all right, the automatic breakaway was all right, and the air-brake warning device was working.

[fol. 929] By Mr. Mueller:

Q. Immediately above the item Brakes, is there something about steering mechanism?

A. Yes, there is a note, "Take up on reach rod;" it was loose. That is right above the item on brakes.

Exam. Baumgartner: What is a reach rod?

The Witness: That is a rod that runs from the bottom end of the drag link connection to the steering connection. Those were loose and should be adjusted.

By Mr. Mueller:

Q. Now, going down to the item Lights and Reflectors, I notice a number of check marks, but opposite the word Battery, there is a comment.

A. Says, "Must be covered." Battery was uncovered. Regulations required the batteries to be kept covered.

Q. Under Parts and Accessories, all items seem to be checked, is that right?

A. No, not all items are checked.

Q. I beg your pardon. The check marks appearing on the exhibit indicate what?

A. That the horn, rear-view mirrors, windshield wipers, speedometer and tires were in working order.

Exam. Baumgartner: What is the failure to put any check?

The Witness: That equipment was not checked. For instance, defrosters, we don't bother with those in the summer time. Heaters we don't bother with. No sleeping berth in the vehicle, no check on that, and no check was made to [fol. 930] the floor of the vehicle, the seal, etc.

By Mr. Mueller:

Q. Now, as to the Emergency Equipment.

A. The fire extinguisher, fuses, flares, flags, spare bulbs, spare fuses and handtools were found in good order.

Q. Now, Mr. Shea, did you examine the contents of this vehicle?

A. Yes, I checked the load against the shipping papers the driver had.

Q. Were there shipments on it of the L. Nelson & Sons Transportation Company?

A. Yes, there were two shipments on L. Nelson's pros on the vehicle, P30174 and P30175. The first one was for 84 bags of wool waste from Philadelphia to Needham, Mass.; the second was for 2 cartons of rayon yarn from Philadelphia, Pennsylvania to Canton, Mass.

Q. Now, did you examine the Nelson's pros covering those shipments at the time?

A. Those two pros, yes.

Q. And they were exhibited to you by the driver.

A. They were.

Q. Now was there a shipment additional to those you have already mentioned on the vehicle?

A. Yes, I found another shipment on the vehicle.

Q. And did you make some notations on your Form SS-31, respecting that additional shipment?

[fol. 931] A. Yes, that there was a shipment moving on Gilbertville Trucking Company pros.

Q. Where on the exhibit does that appear?

A. Down at the bottom under Other Remarks.

Q. Will you proceed.

A. Says, "Also load Gilbertville Trucking Company, Pro R67848, covering a shipment of 3 cartons of fishline from Rockville, Conn. to Boston."

Q. Now I notice a signature at the bottom of this exhibit.

A. Signature of driver Martin and my signature is affixed to the bottom of the report.

Q. Now what is the second part of the exhibit, Mr. Shea, which appears as the first sheet thereof?

Miss Kelley: I object to this, Mr. Examiner.

The Witness: It is a photostat.

Miss Kelley: That question is directed at documents which I allege were illegally taken by the Bureau of Motor Carriers.

Exam. Baumgartner: Yes, well, he will have to answer with respect to that at this point until we come to this por-

tion of the proceeding where you prove that these documents were illegally acquired. It hasn't yet been established that they were illegally acquired, of course. Now, if they were, then, of course, you can object to their admission in evidence and if they are admitted, you can move that they [fol. 932] be stricken, so will you please proceed, Mr. Witness.

The Witness: The second part of the exhibit is a photostatic copy of Gilbertville Trucking Co., Inc. Pro R67848.

By Mr. Mueller:

Q. And what was it covering?

A. That covers a shipment of 3 cartons of fishline weighing 270 pounds. The date is shown as May 1, 1956 and it is marked Prepaid and the consignee was the Boston Camping Distributing Company, 150 Oliver Street, Boston, Mass. The shipper was Kingfisher Bristol Company, Rockville, Conn.

Q. I will ask you, Mr. Shea, whether the number on the upper right-hand corner of this pro corresponds with the number which you noted on your SS-31 form.

A. The number is the same.

Q. Now, Mr. Shea, did you, on May 2, 1956, have occasion to inspect another L. Nelson & Sons Transportation Company vehicle?

A. I did.

Q. At Union, Conn.?

A. I did.

Q. And did you, in the course of your inspection, prepare an SS-31 Form report?

A. I did.

Q. And have you caused copies thereof to be prepared?

A. I made photostatic copies of the report.

Mr. Mueller: Mr. Examiner, I respectfully request that the SS Form 31—

[fol. 933] Exam. Baumgartner: Entitled Driver-Equipment Compliance Check, dated May 2, 1956—

Mr. Mueller:—be marked for identification as Exhibit No. 31.

Exam. Baumgartner: Yes, Witness Shea.

(Government's Exhibit No. 31, Witness Shea, was marked for identification.)

By Mr. Mueller:

Q. Mr. Shea, where did you say the inspection covered by Exhibit 31 took place?

A. Route 15, Union, Conn.

Q. Was that at approximately the time of the inspection covered by Exhibit 30?

A. No, this one was at 10:40 a.m. The other was at 11:20 a.m.

Q. And will you state for the record what vehicle was covered by this examination.

A. This is equipment owned by L. Nelson & Sons Transportation Company, Rockville, Conn., consisting of an International tractor, Co. No. 127 and a Gindy semitrailer, Co. No. T150.

Q. Did the report indicate the name of the driver?

A. Shewokis.

Q. I note a comment respecting driver's log.

A. He was not showing mileage on his driver's daily log.

Q. Now what is the steering mechanism, fuel system, brakes, and so on?

A. Steering mechanism was all right; Fuel System, all [fol. 934] right; Hand Brake was all right; Tubing and Hose was all right; Breakaway working O. K.; Air-brake Warning Device working; Lights were in good order; Horn, Mirrors, Windshield Wipers, Speedometer, Tires were in good working order; Fire Extinguisher, Fuses, Flares, Flags, Spare Bulbs, Spare Fuses and Handtools were all O. K.

Q. Did you inspect the load and did you inspect the lading?

A. I did.

Exam. Baumgartner: What did you mean by that question, "Did you inspect the load and did you inspect the lading"?

By Mr. Mueller:

Q. I am sorry. Did you also examine the shipping papers?

Exam. Baumgartner: We will suspend for lunch until 1:30.

(Adjourned at 12 o'clock noon until 1:30 p.m.)

[fol. 935]

AFTERNOON SESSION

1:30 p.m.

Exam. Baumgartner: Ladies and gentlemen, come to order, please.

By Mr. Mueller:

Q. Now, Mr. Shea, at the beginning of the noon recess I believe we were discussing an exhibit which has been marked for identification as No. 31, and I believe that you have completed your comments respecting the safety check made of the vehicle in question. Now did you examine the contents of the vehicle designated on Exhibit 31?

A. I did.

Q. And will you now tell us what that inspection showed.

A. The vehicle had a shipment of 8 bags of Mohair moving on L. Nelson's Pro P30138 from Philadelphia, Pennsylvania to Auburn, Mass.

Q. Have you made a notation on the exhibit of that number?

A. When I made it out.

Q. Yes, and where does that show on the exhibit?

A. Up here under Statement as to Transportation, etc., near the top of the form.

Q. And did you find those 8 bags of Mohair on the equipment?

A. I did.

Q. And those were moving on Nelson's bills of lading, is that correct?

A. Yes.

[fol. 936] Q. Now did you find any other shipment in addition to those bags of Mohair on the equipment?

A. There was one 55-gallon drum of Emulsifier on the



vehicle for which the driver had no papers. Markings on the drum indicated it was going to Parregon Manufacturing Company, Millbury, Mass. from Reilley Man Walton Company.

Q. And there were no papers on the vehicle.

A. The driver had no shipping papers with him for this shipment.

Q. Now, Mr. Shea, on the day in question, namely, May 2, 1956, did you inspect another vehicle, and in the course of such inspection, did you prepare another Form SS-31?

A. I did.

Q. And did you, in connection with the examination of that vehicle, procure any shipping papers?

A. I did.

Q. And have you made up such Form SS-31 and such shipping papers in the form of an exhibit?

A. Yes, I did, I photostated each one.

Exam. Baumgartner: Two documents, one entitled Gilbertville Trucking Co., Inc. Delivery Receipt, No. R67856, and the other a report on a Driver-Equipment Compliance Check, dated May 2, 1956, are marked for identification as Exhibit No. 32, Witness Shea.

(Government's Exhibit No. 32, Witness Shea, was marked for identification.)

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[fol. 938] By Mr. Mueller:

Q. Now, Mr. Shea, looking at Exhibit 32, and specifically the second part of it, namely, the Driver-Equipment Compliance Check, will you give us the details as to the equipment inspected.

A. This equipment consisted of a tractor semitrailer combination, owned by L. Nelson & Sons Transportation Company of Rockville, Conn., inspected on May 2, 1956 on Route 15, Union, Conn. at 11:50 a.m. The combination consisted of International tractor, Co. No. 107 and a Struik semitrailer T125.

Q. Can you give us the name of the driver?

A. The driver's name was Avery.

[fol. 939] Q. Did you have some comment respecting his log?

A. His log was not indicating daily mileage.

Q. Did you have some comment there respecting a doctor's certificate?

A. His doctor's certificate was issued in June, 1955.

Q. Now jumping down to the items brakes, lights, parts and accessories and emergency equipment, did you find any violation of any of the Commission's requirements?

A. On all items checked, I found no defects.

Q. Now in connection with this vehicle inspection, did you examine the load?

A. I did.

Q. And have you made a notation on the exhibit respecting your findings as to the contents?

A. I have.

Q. Will you proceed to give us the information.

A. Inspection of the load showed that there were 10 shipments on L. Nelson & Sons paper, one shipment was moving on Pro P30173, wool waste from Philadelphia, Pa. to Woonsocket, R. I. I also found another shipment, or rather there were 9 other shipments on L. Nelson's paper. I said there were 10 shipments in all.

Q. Now did you find any other shipment on board that vehicle?

A. Yes, I did.

Q. Can you describe it?

A. A shipment of 2 cartons of rayon piece goods moving [fol. 940] on Gilbertville Pro R67856 from Rockville, Conn. to Woonsocket, R. I. was also on the vehicle.

Q. Now again referring to the Driver-Equipment Compliance Check, did the driver acknowledge receipt of the copy?

A. Yes, driver Avery signed for a copy and my signature appears also on the bottom.

Q. Now did you at that time inspect or have made available to you a Gilbertville Trucking Company pro covering the Gilbertville shipment which you have described?

A. I did.

Q. And is a copy of that pro the document which forms the first page of Exhibit No. 32?

A. It is.

Q. And will you further describe that portion of the exhibit, Mr. Shea.

A. This is a Gilbertville Trucking Co., Inc. Pro No. R67856, issued May 1, 1956 covering a shipment of 2 cartons of rayon piece goods on tubes, weight 158 pounds, consigned to the North American Textile, 84 Fairmount Street, Woonsocket, R. I., shipped by American Dye Corporation, Rockville, Conn. on a collect basis.

[fol: 944] Cross examination.

By Miss Kelley:

Q. Now your investigation of the Gilbertville Trucking Company resulted only from the fact that you saw a vehicle, I believe you testified on November 21, 1954.

[fol: 945] A. No, October 21, 1954 I observed the vehicle.

Q. October 21, I am sorry, but that was the basis for your investigation, was it not, because you saw that vehicle on October 21 with placards on the side showing it was leased to Gilbertville Trucking Company?

A. No.

Q. You stated that after seeing that vehicle you contacted Mr. LaCour.

A. That is right.

Q. Now, prior to contacting Mr. LaCour, did you check the records at the Boston office of the Commission as to the address of the Gilbertville Trucking Company?

A. No, I did not.

[fol: 946] By Miss Kelley:

Q. Did you check the files of the Commission to determine what those records showed with respect to the place of business of the Gilbertville Trucking Company?

A. Yes, I checked the records in the Springfield office.

Q. And did you find there an address of Hardwick Road in Gilbertville?

A. That is correct.

Q. Didn't you also find in the Commission's file some information with respect to Gilbertville Trucking Company's location at Ellington, Conn.?

A. No, I did not.

Mr. Mueller: May I ask to what period this inquiry is directed?

Exam. Baumgartner: I think she indicated just prior to his institution of this investigation to which he has testified, the investigation commencing in 1954.

Miss Kelley: Between the period October 21 and November 22, 1954, which is the period I believe he testified to.

By Miss Kelley:

Q. Now during 1955 and 1956, have you observed that the vehicles of Gilbertville which are leased from Nelson have a placard made of a plastic-coated nylon material? [fol. 947] A. I have.

Q. Now at what time of day did you arrive at the Gilbertville terminal on your first visit to their terminal?

A. About 1 p.m.

Exam. Baumgartner: Give us the date.

The Witness: The date was October 22, 1954.

By Miss Kelley:

Q. At the time that you arrived here, were there six drivers about the premises?

A. No, I didn't see any six drivers. I saw just Mr. Kashady and a Mr. Sullivan.

Q. You found records with respect to two drivers, can you give me their names?

A. Two drivers?

Q. That is what I understood you to say. Maybe to speed it up, Mr. Shea, can I ask you if the name of Gosselin and Kirby sound familiar to you?

A. Yes, they showed me a doctor's certificate of Gosselin.

Q. And also one for Kirby or some other man.

A. They only showed me one for Gosselin.

Q. In your previous testimony, you said that you saw two doctor's certificates.

A. I don't recall that.

Exam. Baumgartner: No. I think. Miss Kelley, you are confused. He testified there were drivers' logs for two drivers and one doctor's certificate for one driver.

[fol. 948] By Miss Kelley:

Q. Could be my notes are in error. When you visited the office at Ellington, Conn., you found a number of doctor's certificates, did you not?

A. We did.

Exam. Baumgartner: Which visit was that, on what day?

The Witness: November 9 and 10, 1954.

By Miss Kelley:

Q. Isn't it a fact that you found doctor's certificates at that office for the drivers whose names you gave us on direct examination?

A. That is correct.

Q. Now how many doctor's certificates would you say you found in the file at Gilbertville?

A. Between 50 and 60.

Mr. Mueller: Which carrier are we talking about?

Miss Kelley: Gilbertville Trucking Company.

By Miss Kelley:

Q. Did you find among those doctor's certificates records that showed some of those drivers were also employed by a number of other carriers such as All State, Associated Transfer, Adley's Express?

A. No, I did not.

Q. Did you look for such information on those doctor's certificates?

A. No, I did not.

(Discussion off the record.)

By Miss Kelley:

Q. When you mentioned the 50 or 60 doctor's certificates, [fol. 949] Mr. Shea, were you referring to the files of the Gilbertville Trucking Company at Ellington, Conn.?

A. I was.

Q. Now getting back to your visit to Gilbertville, I believe it was October 22, 1954.

A. That is right.

Q. You said that you inspected leases of Nelson to Gilbertville on that date.

A. I did.

Q. Did you copy any of those leases?

A. I did not.

Q. And at this time, you cannot tell us what vehicles were covered by those leases.

A. I could not.

Q. Whether these were tractors or trailers alone or tractor-trailer combinations.

A. I could not.

Q. Or straight trucks.

A. No.

Exam. Baumgartner: What leases are you referring to?

Miss Kelley: Mr. Shea testified, Mr. Examiner, that he checked leases from Nelson to Gilbertville when he called at the terminal of Gilbertville Trucking Company in Gilbertville, Mass. on October 22, 1954.

By Miss Kelley:

Q: And likewise, at this time, with respect to those [fol. 950] leases, you cannot tell us whether they covered a one-way operation or a round-trip operation or the specific points between which the vehicle was to travel.

A. They were all trip leases, but whether they were single trip or round-trip, I couldn't say, but they were all trip leases.

Q. Now on November 9, 1954, which I believe is the next date you have with respect to your inspection of this matter, you went to the office at Ellington, Conn.

A. That is correct.

Q. Now you said that you saw a sign designating Nelson's office; will you tell us where you saw that sign.

A. It is my recollection I saw a sign on the office building.

Q. Now, Mr. Shea, do you recall any other sign?

A. No, I do not.

Q. Mr. Shea, if you recollect the premises at Ellington,



Conn., the house that you referred to as an office is set back quite a bit from the road, isn't that true?

A. Oh, about 20 feet.

Q. And there is a double driveway into the premises.

A. Yes, there is a U-shaped driveway; you go in and go right around and come out again.

Q. Now do you recall a sign that is between the space for the driveway, about 25 yards from the office building?

A. I don't recall any sign like that.

[fol. 951] Q. What part of the building do you claim there was a sign on?

A. The sign, as I recall, was not on the building, but it was on a post.

Q. And is that the sign that I referred to that is out between the driveway?

A. It may be and it may be you and I are talking about the same sign. I can't recall the exact location of the sign.

Q. Do you agree there was no sign on the building, but there was one out near the entrance to the property, or somewhere in that vicinity?

A. It was on a post, as I recall it now.

Q. Do you know what the wording was on that sign?

A. No, I don't.

Q. Do you recollect that there is any arrow or anything else on that sign?

A. No, I don't.

Q. Now do you agree that there was no sign on the building which you designated as a sort of town house?

A. To the best of my recollection, there is only one sign that was on a post. The exact location, I couldn't locate it for you now.

Q. But do you agree that the sign was some distance from any building?

Mr. Mueller: I object, Mr. Examiner, to this repetition, [fol. 952] argumentative.

Exam. Baumgartner: Well, why don't you ask him how far the post bearing the sign was from the building.

By Miss Kelley:

Q. Can you tell us, Mr. Shea?

A. I couldn't tell you.

Q. Now there is a front door to that building, is there not?

A. I don't know.

Q. You didn't look for a front door, is that right?

A. I didn't.

Q. Do you normally walk around to the rear of any building and go in a rear door when you call on carriers making inspections?

Mr. Mueller: I object, Mr. Examiner.

Exam. Baumgartner: Why don't you ask him whether he entered the building, and, if so, through what door.

Miss Kelley: Mr. Examiner, they made quite a point on the examination that they entered through the rear door.

By Miss Kelley:

Q. Will you tell us what door you did enter by?

A. We entered a door which would be at the back of the house in relation to the street. We parked our car in this parking space and walked in the nearest doorway, which is the back door.

Exam. Baumgartner: The nearest door to what?

The Witness: To where we left our car parked. We parked across the yard, maybe about 40 or 50 feet and went [fol. 953] in the back door.

By Miss Kelley:

Q. Now I believe you said you saw some records with respect to Mr. Seiferth. Do you recall testifying with respect to him?

A. In relation to records?

Q. Yes.

A. No, I don't remember saying that.

Q. Do you recall your testimony with respect to the job classification of Mr. Seiferth?

A. No, I don't remember that.

Q. So that at the present time you have no recollection as to Mr. Seiferth's job classification.

A. He was a dock foreman or he had something to do with

the loading dock out at the back of the building, out at the other building, out back.

Q. What record did you see as to his job classification?

A. I didn't see any records as to his job classification.

Q. Did you learn what his duties were in and about the premises?

A. Only by observing him, that is all.

Q. Did you learn whether or not he was a member of any labor union?

A. No, I didn't.

Q. Did you check any payroll records to learn whether Mr. Seiferth was an hourly worker or just what his status was?

[fol. 954] A. No, I didn't.

Q. Now you said you found Mrs. Marjorie Edwards to be in charge of the L Nelson & Sons' office.

A. That is what she told me.

Q. And you said something with respect to Kenneth Nelson talking to her: I don't want the conversation, but did you observe Kenneth Nelson talking to Mrs. Edwards?

A. I did.

Q. Do you know whether or not that conversation involved interline shipments between Gilbertville and Nelson?

A. I do not know.

Q. Am I to understand that you do not know what the conversation was between Kenneth Nelson and Mrs. Edwards?

A. No, simply she would ask him a question; he would give her an answer.

Q. Now you offered some testimony with respect to the pro forms or billing forms used by the Gilbertville Trucking Company.

A. I did.

Q. And these forms showed the name of the Gilbertville Trucking Company written out.

A. Yes, they do.

Q. And they show a P. O. address of Gilbertville, Mass.

A. P. O. Box 58, Gilbertville, Mass.

Q. They show a main office, Gilbertville, Mass. and the [fol. 955] Gilbertville telephone number.

A. It does.

Q. Now do they show, among other points of service, New York, New England, Philadelphia and Wilmington, Delaware, New Jersey points?

A. Not on this copy I am looking at. I see nothing about Wilmington, Delaware.

Exam. Baumgartner: Exhibit what are you looking at?

The Witness: 22. I thought that was a phone number. Wilmington, Delaware is on there.

By Miss Kelley:

Q. And in respect to those matters, the pro of the Gilbertville Trucking Company is different than the pro of L Nelson & Sons, is it not?

A. In some respects.

Q. So that it would be a different plate of a printer that went in to print the pros, isn't that correct?

A. Not exactly.

Q. The name is different.

A. The name is different.

Q. And there is different information as to the points served by the two carriers.

A. In a few instances, yes.

Exam. Baumgartner: These pros were printed.

The Witness: Yes.

Exam. Baumgartner: For both companies?

[fol. 956] The Witness: Yes, they were both printed forms.

By Miss Kelley:

Q. Isn't it also a fact that the number series of L Nelson's pros is completely different than the numbering series of Gilbertville's pros?

A. The numbers wouldn't be the same, but as I recall, the numbers were in the same location on the form and the same little box was on the form.

Q. But the series is what I am asking you about.

A. The serial numbers would be different.

Q. They were completely different.

A. Yes.

Q. On November 9 and 10 you said that you checked pros of the Gilbertville Trucking Company, can you give me the pro numbers that you checked or the dates with respect to those pros?

A. What was the date again, please?

Q. Both November 9 and 10, 1954.

A. And you want to know the list of pros that I checked?

Q. Do you have a list of the pros you checked or the dates of those pros?

A. No, I have no list.

[fol. 963] Q. In referring to Exhibit 27 again, Mr. Shea, you have made a notation as to certain pro numbers on that inspection report, isn't that true?

A. Yes.

Q. Now isn't it proper to presume that all those pros were in order or you would have made some note?

A. No. I think they probably could well be in order, although there is quite a difference in the numbers, 9667, 9685 and 0624. They are not running right in sequence; they are in the same series.

Q. Didn't you find in checking records that the different [fol. 964] terminals had a different series so that it was not unusual for Gilbertville bills to have different series?

A. That would not be unusual.

Q. Did you make a copy of the lease which driver Claremont had on his vehicle, referring to Exhibit 27?

A. Did we make a copy of the lease?

Q. Yes.

A. I did not, no.

Q. After inspecting the vehicle of Mr. Claremont, you proceeded down to the Ellington terminal, is that correct?

A. That is correct.

Q. And you said that you observed there a list of drivers on a bulletin board.

A. The seniority list of L Nelson drivers.

Q. And wasn't that list a list that was prepared by the union and it showed that it was the union's list of drivers?

A. I do not know who prepared it.

Q. Did you notice any signature or name as to the person who had prepared what was on that list?

A. I didn't notice that.

Q. Or any reference to a union?

A. No. I know it was a bulletin and I noticed on the bulletin board it had seniority list of drivers of L. Nelson & Sons.

Q. Was there a similar list for the Gilbertville Trucking Company?

[Tol. 965] A. Where?

Q. On the premises on that bulletin board or elsewhere.

A. At Ellington?

Q. Yes.

A. No, just the one list.

Q. Now did you make any comparison with the names of drivers that were on that list as to drivers of other companies whose premises you may have inspected to know whether or not those drivers' names appeared on any other motor carrier's list of drivers?

Mr. Mueller: Mr. Examiner, I object. I think that is irrelevant.

Exam. Baumgartner: He may answer.

The Witness: I made no such check.

Exam. Baumgartner: Would there be any occasion for such a list on the Ellington premises?

The Witness: Of employees of other carriers?

Exam. Baumgartner: Yes.

The Witness: No, sir.

Miss Kelley: I didn't mean employees at Ellington. I meant as Mr. Shea in his work does the checking around and as he has checked other carriers in that area.

Mr. Mueller: That was the basis of my objection.

Exam. Baumgartner: Is that the way you understood the question?

[fol. 966] The Witness: Yes. I thought she was referring to my checking of other terminals.

Exam. Baumgartner: Seniority lists at other terminals of other carriers.

The Witness: That is right. I made no such checks because that is not my territory, ordinarily. I was down there on a special investigation.

Exam. Baumgartner: Well, do you make such checks in your own territory?



The Witness: That is common to notice that in every establishment that has union drivers, there is a seniority list of the drivers and drivers listed on the bulletin board.

By Miss Kelley:

Q. Did you find that both Gilbertville and the L. Nelson & Sons Company have union drivers; they are both union shops as far as employees are concerned?

A. I don't know about Gilbertville Trucking, but L Nelson I was sure was because there was a seniority list required by the union posted on the bulletin board.

Q. Now were the only occasions you visited Ellington, Conn. on November 10, 1954?

A. To the best of my recollection, those are the only two days I have ever been in that terminal.

Q. Now on November 10, did you see any bills of sale or other records with respect to equipment sold by L Nelson Company to Gilbertville Trucking Company?

[fol. 967] A. No, I did not.

Q. Now at the time that you were there, do you recall that on the desk of Kenneth Nelson there were some bills of sale involving equipment?

A. I don't recall that at all.

Q. You said that you learned that four tractors had been sold by the L. Nelson Company to the Gilbertville Trucking Company.

A. Kenneth Nelson told me that.

Q. And you said, as I recollect your testimony, that two of the tractors at that time had not been paid for, is that correct?

A. Kenneth Nelson stated that he still owed L Nelson Company for two tractors.

Q. Well, now, Mr. Shea, when you talked about trucks which you gave evidence on, do you recollect whether he was talking about a completed transaction with respect to trucks or a contemplated transaction with respect to trucks?

A. This was a completed transaction; these were vehicles he had bought from L Nelson Company.

Q. Are you referring to the tractors?

A. Tractors and trucks, four tractors and two straight trucks that he had purchased from L. Nelson and he told us he still owed them for two tractors.

Q. But did you see any bills of sale or any records in [fol. 968] connection with any of those sales?

A. I did not.

Mr. Mueller: Mr. Examiner, we have gone over this several times, it is repetitious.

Exam. Baumgartner: Yes, it is repetition.

By Miss Kelley:

Q. And, Mr. Shea, at this time, do you admit you can't remember any more than the rest of us what was said exactly two years ago?

A. Yes.

Q. So that you are relying on notes which you made.

A. That is correct.

Q. But as to the exact recollection as to the conversation which took place with respect to the two trucks, you can't remember it any more than I could.

A. I couldn't put it word for word, no.

Q. Now with respect to the repairs of the equipment of the Gilbertville Trucking Company, did you check the records of the company as to bills which it had received for repairs or was that something that you got only from conversation?

A. Mostly in conversation with Mr. Kenneth Nelson, although I did go up and visit their shops and talk to two of L. Nelson's mechanics.

Q. Did you check to find if there were bills from the International Harvester, for example?

A. I don't recall checking any bills.

[fol. 969] Q. You found, did you not, that their tractors were principally International tractors?

A. They were.

Q. But you checked no bills.

A. No, I didn't.

Q. And if I asked you about other companies, your answer would be you hadn't checked their bills either.

A. What other companies?

Q. For example, of the Strick Trailer.

A. We didn't check any repair bills of any company.

Q. My notes are not clear on this point, so that my understanding of your testimony, Mr. Shea, was that when you called at the terminal at Gilbertville, Mass. and made inquiry with respect to payroll records and accounting records, that you were told that they were not available at Gilbertville, but were available at Ellington, Conn., is that correct?

A. That is about what Mr. Kashady told me, that is right.

Q. And you found those records at Ellington, Conn.

A. Payroll records we saw and we saw account records, yes.

Q. On your Exhibit 29, Mr. Shea, you made reference to a Gilbertville Pro R16869, is that correct?

A. That is the number I have on this form.

Q. Is that a copy of the Pro No. 16869, Mr. Shea?

A. Yes, that is a penciled copy.

Q. Isn't it the exact copy? I mean, it is a delivery receipt [fol. 970] that shows the signature.

A. Apparently it is, that is right.

Q. A signed delivery receipt.

A. Yes.

Q. And now, Mr. Shea, you said, in answer to a question of Mr. Mueller's, that you did not know the weight of this shipment, so will you tell us what the weight is of that shipment.

A. The weight is 85 pounds.

Q. And that was the one case of machine rolls.

A. Machinery rolls.

Q. Now, Mr. Shea, when you look at that paper or pro in your hand, can you tell us if the weight was not written in and isn't it of the same type as the other handwriting showing the shipper and consignee and description of the amount?

A. Apparently it is, but it is a little bit above the item machinery rolls; it is not on the same line.

Q. Now that shipment shows that it moved from Pittsfield, Mass. to Fiskeville, Mass.

A. Either Eiskeville or Fisherville.

Q. Can you tell us where Eiskeville is?

A. I do not know.

Q. And Pittsfield, Mass., you do know where that is.

A. Yes.

Q. Can you tell us approximately where that is in the state of Massachusetts?

[fol. 971] A. It is in the western part of Massachusetts, about 60 miles west of Springfield and about 30 miles from the New York-Massachusetts state line, about half way between the Connecticut and the Vermont border.

Q. Does the bill show that was a minimum shipment?

A. It does. There is an MPM and a rate of \$2.45, which indicates a minimum.

Q. Which indicates the fact that it is a minimum shipment.

A. That is right.

Q. Mr. Shea, how do you inspect, I think you called them rocker beams?

A. Rocker bearings. It is a visual inspection.

Q. Where are rocker bearings on a vehicle?

A. That is the bearing in which the lower half of the fifth wheel rocks back and forth. In other words, they are really bearing feet that support the lower half of the fifth wheel on a tractor.

Q. Is the vehicle stopped when you make that inspection?

A. Oh, yes, you could see the bolts loose on it.

Q. And the trailer sits on top of this thing?

A. The top half of the fifth wheel, which is on the trailer, sits on the lower half of the fifth wheel which is on the tractor. This tractor lower half rocks back and forth supported on bearings on each side and then these bearing feet support the lower half of the fifth wheel and those, in [fol. 972] turn, are bolted onto the bed plate, and my item there, meant that the rocker bearing feet were loose on the bed plate because the bolts had become loose.

Q. That appeared from a visual inspection.

A. You could see the bolts were less than hand tight.

Q. Now tell me where is a reach rod on a truck.

Exam. Baumgartner: While we are on the subject, is there another name for this reach rod?

The Witness: Pitman arm.

By Miss Kelley:

Q. Where is that on the tractor?

A. It usually runs from the drag link forward to the steering connections to the tie rods, king pin connections.

Q. That is under the truck, is that right?

A. That's right.

Q. Now to make an inspection of the reach rod, as you call it, is it necessary to go under the truck?

A. You can look under and observe it; while somebody works the wheel real fast, you can observe the play.

Q. That, too, is a visual inspection.

A. True.

Q. Is your inspection of parts under the trucks a visual inspection?

A. Not always.

Q. Well, I mean, in any that are reported in these three reports that you have here of the items that you tested.

[fol. 973] A. When I say visual, I might take hold of the wheel myself and swing it back and forth; I might climb in the cab and try the brakes myself; I might take the fire extinguisher down and try it.

Q. To see anything under the truck, you would have to be on the outside.

A. No, I would crawl underneath it; I wear white jumpers when I work.

Q. On these three, did you crawl under?

A. Which ones?

Q. You referred to Exhibit 32, 31 and Exhibit 30.

A. In any of these, I wouldn't be able to answer at this time whether I crawled underneath or not, it is so long ago.

Q. Mr. Shea, do you recall you testified that on one of these shipments of vehicles of the E Nelson Company there were spools?

A. Yes, shipment of spools.

Q. That also refers to Exhibit No. 29, is that correct?

A. Yes.

Q. Do you recall whether those spools were packed or transported loose without packing?

A. I couldn't say. They might have been great big wooden reels; they might have been in cartons; they might have been in bags. I couldn't say now.

Q. You don't know?

[fol. 974] A. I don't know.

Exam. Baumgartner: We will take a ten minute recess.

(Short recess.)

Exam. Baumgartner: Ladies and gentlemen, let's come to order. You may proceed, Miss Kelley.

By Miss Kelley:

Q. With respect to Exhibit 31, Mr. Shea, did you make an investigation to determine if the consignee, which I believe to be Paregon Manufacturing Company, is engaged in the textile business?

A. I did not.

Q. Now with respect to your testimony about the vehicle seen at Newton, which you said was driven by a driver Erb, do you have a record as to where Mr. Erb drove that truck; where did he go?

A. Do I have a record?

Q. Did you see records on which you base your testimony as to where he went?

A. Yes, one shipment was going to Scituate or Cohasset. I have got it here if I can have a minute. This delivery was to Cohasset, Massachusetts, which is outside the Boston Commercial Zone.

Q. Other than the reference to Cohasset, did you copy any records so that you could tell us what the lading was on that truck?

A. No, I didn't.

[fol. 975] Q. Now you said that at the Newton terminal you checked certain manifests of the L. Nelson & Sons Company.

A. Yes.



Q. Isn't it a fact, Mr. Shea, that the manifests of the L. Nelson Company are one or more sheets covering all of the shipments moving out of the particular terminal on a particular day?

A. Those manifests are wide sheets and they show movements of outgoing freight going out of that terminal listed by dates, pro numbers.

Q. Isn't it a continuous list for each day?

A. There might be two or three trailers on one sheet.

Q. They are not separate manifests for each truck.

A. No, not that I recall.

Q. But a continuous one.

A. Yes.

Q. As far as the Gilbertville manifests that you saw, did they also reflect the shipments for a total day that went out of a particular terminal?

A. Yes, the date and the pro would show and some other information, but it wouldn't show just what vehicle moved forward, whereas the L Nelson manifests would show that.

Q. Isn't it a fact, though, that neither one of them show exactly on what vehicles the freight moved?

A. Oh, yes, the L Nelson & Sons manifests show the [fol. 976] trailer number on which the freight went forward out of the terminal.

Q. Now do you know what dates were covered by the manifests that you checked?

A. These were manifests in September, October and November, 1955.

Q. Now you stated that you asked for certain records at the Newton office, and was that the same situation as at Gilbertville, Mass., that you learned that the records were kept at Ellington, Conn.?

A. I do not know because I did not go back to Ellington after this.

Q. Mr. Shea, you said that you saw five cartons on a vehicle at Newton, and was that also on November 8, 1955?

A. Yes.

Q. Now you did not see that vehicle unload, is that right?

A. No, I didn't.

Q. And the following morning, I believe you said that

at 6:30 in the morning you appeared at the terminal in Newton.

A. Yes, the following morning at 6:30 a.m. I was back at the terminal.

Q. Now do you know how many vehicles moved in and out of the Newton terminal between 6 o'clock or 6:30, whatever time you left it on November 8, 1955, and before you appeared there on November 9, 1955?

A. I wouldn't know.

[fol. 977] Q. And, likewise, you wouldn't know what freight had passed over their platform there during those hours.

A. I wouldn't know.

Q. And the following morning, you said you saw two cartons on the platform at the Newton terminal.

A. I saw two cartons that I had seen on the truck the day before, yes.

Q. Can you identify the cartons for us?

A. Yes. I identified the cartons in this way. On the first day I was there, on the 8th, when there was a question about these cartons, I climbed up into the truck and got some identification off the cartons, consignees' names. I saw these same names on these cartons on the platform and the cartons were very similar to those that I had seen on the truck the day before.

Q. Mr. Shea, there could have been another shipment for the same consignee of the same type cartons come in during the night, isn't that right?

A. It could so happen.

Q. I believe you testified you did not know what was in those cartons.

A. No, I had no idea what was in the cartons.

Q. Now, Mr. Shea, on May 2, 1956, there was a road check at Union, Conn. Who participated in that road check?

A. You mean Commission personnel?

[fol. 978] Q. Commission personnel and other people who participated in it.

A. We had four Connecticut State Troopers, State Police; we had two Connecticut D.P.V. Inspectors and four Inspectors from the Connecticut Motor Vehicle Department.

and there was present for the Commission, District Supervisor LaCour and myself, District Supervisor Noble of Hartford; District Supervisor Virmback of New York, Safety Inspector Edmunds of Hartford, Conn., and District Supervisor Pollard.

Q. And he is connected with the Boston office, is that correct?

A. That is right.

Q. Now what was the procedure followed on that day? Was every truck stopped that came along that road or was there a selectivity as to the trucks to be stopped in checking?

A. They stopped every truck that came along and I objected to the procedure because they were delaying the trucks. They stopped every truck that came along.

Q. There was a long line of trucks?

A. Yes, there was.

Q. Now did one or more people engage in the inspection of each vehicle?

A. No. Usually each Commission employee would inspect one vehicle and there would be only one Commission employee at a time inspecting a vehicle, usually.

[fol. 979] Exam. Baumgartner: You mean ICC employee?

The Witness: That is right, although the State Police and D.P.U. and Motor Vehicle Inspectors would be looking at them all at the same time.

By Miss Kelley:

Q. Do you know how many vehicles of the Gilbertville Trucking Company were inspected on that date?

A. How many altogether?

Q. Of the Gilbertville Trucking Company, yes.

A. No, I don't know.

Q. Do you know how many vehicles that you were involved in the inspection of on that date?

A. Gilbertville?

Q. Gilbertville vehicles.

A. No Gilbertville trucks, as I recall.

Q. I will just refresh your recollection. I show you a Bureau of Motor Carrier Compliance Report, dated May 2, 1956, on the Gilbertville Trucking Company, showing a place of inspection on Route 15, Union, Conn. and your name is signed at the bottom of that report, Mr. Shea.

A. That is right. That is one Gilbertville truck I inspected.

Q. And outside of a question with respect to a reflector and a stop light, there was no criticism of that particular vehicle.

A. The driver Solemy did not show mileage of his log; other than those three items.

Q. Now I show you an inspection report of the same date, [fol. 980] May 2, 1956, which shows that it was inspected by John G. Edmunds.

A. Safety Inspector Edmunds of Hartford.

Exam. Baumgartner: Just a minute, when was this and where and by whom?

The Witness: May 2, 1956.

Mr. Mueller: Mr. Examiner, this is going beyond the scope of the direct examination, I submit.

Miss Kelley: Mr. Shea said he participated in it so I think I have a right to ask if he participated in these inspections.

Exam. Baumgartner: Was this inspection made at the time and place that you mentioned awhile ago?

The Witness: The same place, and this one is at 9:55 a.m. It is the same place, at a different time during the same day.

Exam. Baumgartner: Were you there?

The Witness: I was in the vicinity, Mr. Examiner.

Exam. Baumgartner: Part of a common project.

The Witness: This second sheet, she is referring to Edmunds. I had nothing to do with that inspection whatsoever.

Miss Kelley: That is what I wanted to ask him. That answers the question.

By Miss Kelley:

Q. Are you familiar enough with the Bureau of Motor Carriers' Reports to tell us if that inspection report re-[fol. 981] flects that the vehicle, with the exception of one mechanical complaint, appeared to be in order?

Mr. Mueller: Just a minute, Mr. Examiner.

Miss Kelley: I am asking him if he is familiar enough with these reports.

Exam. Baumgartner: The answer is either yes or no, Mr. Witness.

The Witness: Familiar enough for what purpose now?

Exam. Baumgartner: If you are familiar enough with that report to—

Miss Kelley: Tell us, insofar as the inspection of that vehicle is concerned, was everything found in order with the exception of a mechanical criticism.

The Witness: There is no mention of the driver's log.

Exam. Baumgartner: In other words, are you familiar enough with this report to testify as to what it contains?

The Witness: Yes.

Exam. Baumgartner: All right. Now what is your next question.

By Miss Kelley:

Q. Well, now, will you tell us, insofar as that report is concerned, if it shows that the tractor and trailer were leased from L Nelson and the leases were O. K. and the vehicle identified O. K.

A. That is an item under "Remarks," that is correct.

Q. And there was one criticism of air-brake warning [fol. 982] device, is that correct?

A. Air-brake warning device inoperative, not working.

Exam. Baumgartner: The report reflects that?

The Witness: And the report reflects two lights out and there is no comment on the driver's log.

Mr. Mueller: Now, Mr. Examiner, I wish to renew my objection.

Exam. Baumgartner: I think he can testify as to what the thing reflects. I think he is familiar enough with what

is in the report, but that is not to be taken as testimony that what the report reflects is true or reflects the facts. All he is testifying to is to what the report shows. I think that he is qualified to do that.

By Miss Kelley:

Q. Now, Mr. Shea, I show you another report. This is the usual form of inspection report.

A. Yes.

Exam. Baumgartner: Now, just a minute, give us a little more identification of the report concerning what you are inquiring about.

By Miss Kelley:

Q. Is that the SS-31 form of the Commission and it is dated May 2, 1956, shows time of 11 a.m., shows the name of the carrier as Gilbertville Trucking Company, Inc., Gilbertville, Mass., and the place of inspection Route 15, Union, Conn.?

A. That is correct.

[fol. 983] Q. Do you recognize that as another vehicle that would have been inspected at the time and place you testified to with respect to the surprise inspection at Union, Connecticut?

A. On the same date at the same location, yes.

Exam. Baumgartner: Now what you are testifying to is what is reflected in the report.

The Witness: The report shows that it was prepared there; I don't know whether it was or not.

Exam. Baumgartner: You don't know whether these matters are fact or not.

The Witness: Just it appears that way from the paper I am looking at.

Exam. Baumgartner: Let it be understood that is all you are testifying to, the report reflects these things.

By Miss Kelley:

Q. And it shows that the driver of that vehicle was Charles Botti.



A. Yes.

Q. Now the inspection shown on that report is Mr. LaCour's, is that correct?

A. That is right.

Q. Now, Mr. Shea, did you inspect this vehicle with Mr. LaCour?

A. I did.

Q. And you climbed into this vehicle and you saw what the freight was on the vehicle.

[fol. 984] A. Either Mr. LaCour or I climbed into the vehicle, I am not sure which now. One LaCour climbed up on the top of it; I think this is the one.

Exam. Baumgartner: Now, just a minute, am I to understand that you participated in this inspection?

The Witness: Yes.

Exam. Baumgartner: Which is reflected in this report.

The Witness: Yes.

Exam. Baumgartner: Then you can testify as to the facts.

The Witness: I participated in the inspection of this particular truck, just this one and the one with my name on it too. The one of Edmunds', I had nothing to do with.

Miss Kelley: That is what I am trying to find out, which he participated in.

Exam. Baumgartner: Do you have an objection?

Mr. Mueller: I was going to submit, Mr. Examiner, that we are getting at this out of order, so to speak. I expected to put Mr. LaCour on the stand and have him testify respecting what I believe to be an SS-31 that he made out in his own handwriting.

Exam. Baumgartner: He won't be precluded from testifying with respect to this inspection, but since the subject of the road inspection of vehicles on that date and place was opened up on direct examination, I believe that Miss Kelley has the right to make some cross examination about it and [fol. 985] I think I will permit her to go ahead.

By Miss Kelley:

Q. Do you recall that you had some discussion with driver Botti?

A. I had no discussion with driver Botti.

Q. I will refresh your recollection, possibly, in connection with it. This shows an inspection at 11 a.m., is that correct?

A. That is right.

Q. Now did Mr. LaCour go to lunch and when he came back there was some discussion in connection with this vehicle and during the period that Mr. LaCour was at lunch, didn't you have some conversation with driver Botti?

A. I can't identify the particular driver. I talked to quite a few drivers that day. I think I inspected 24 trucks and I don't recall talking to driver Botti individually.

Q. Do you recall what freight was on this particular vehicle?

A. No, I do not.

Q. Do you recall identifying yourself to driver Botti and showing your credentials?

A. No, I don't recall that.

Q. Do you recall requesting driver Botti to open the truck so you could inspect the contents of it?

A. Not driver Botti individually. I requested several drivers that day to open their vehicles for inspection.

Q. As to this particular driver.

A. I do not recall requesting driver Botti individually to [fol. 986] open his truck.

Q. And you don't recall getting inside this truck and inspecting it.

A. Not that one individually, no.

Q. Now I show you another SS-31 report dated the same date, May 2, 1956, showing the time as 9:05 a.m., Gilbertville Trucking Company, Inc., Gilbertville, Mass., Route 15, Union, Conn., and it shows it was inspected by LaCour. Did you assist at all or have any part in the inspection of that particular vehicle?

A. No, I did not.

Q. Mr. Shea, do you recall how many vehicles of the L Nelson & Sons Transportation Company were inspected on that day?

A. I inspected three.

Exam. Baumgartner: We are talking about this same time and place and same inspection, is that right?

The Witness: I don't know how many it was on that day of L Nelson's.

Exam. Baumgartner: Miss Kelley, you are referring to the same time and place?

Miss Kelley: Yes, sir, same time and place, I believe.

Exam. Baumgartner: I mean the same day and place.

Miss Kelley: That is right.

Exam. Baumgartner: And the same general road check made that day.

[fol. 987] Miss Kelley: That is correct.

By Miss Kelley:

Q. The first record I have of the L Nelson & Sons Company is one that shows your name and I believe you have already identified it. It is in evidence.

A. Yes.

Exam. Baumgartner: You mean that particular road check report is in evidence?

The Witness: Yes.

Exam. Baumgartner: As an exhibit?

Miss Kelley: As Exhibit 32.

Exam. Baumgartner: As part of Exhibit 32.

By Miss Kelley:

Q. Mr. Shea, I show you another inspection report dated the same date, May 2, 1956, shows L Nelson & Sons Company, Bockville, Conn., place of inspection, Union, Conn., Route 15, and that shows that it was inspected by Mr. Pollard.

A. Correct.

Q. Did you participate in that inspection?

A. I did not.

Q. From your knowledge of the reports of the Commission, there is a criticism on that report with respect to the driver's log, is that correct?

A. That is the only criticism, driver Frank Kashady, Jr., no log.

Q. And the second one that I show you has been testified [fol. 988] to by you as being Exhibit 31 in this proceeding

as a truck of the L Nelson & Sons Company that was inspected at that time at Union, Conn.

A. That is right.

Q. And the next one I show you is one that is in the record as Exhibit 32.

A. That is right.

Q. Now I show you another inspection report, SS-31, 5/2/56, shows the date and the time is shown as 11:45 a.m. It is a vehicle of the L Nelson & Sons Transportation Company, Rockville, Conn., place of inspection, Route 15, Union, Conn., and that is shown to be driver John L. Walters, is that correct?

A. Yes.

Q. And it is shown that that vehicle was inspected by Mr. LaCour.

A. That is right.

Q. Did you assist Mr. LaCour in the inspection of that vehicle?

A. I did not.

Q. From this inspection report, with the exception of some mechanical criticism, is there any other criticism on the vehicle?

A. There were two lights out and a defective parking brake.

Q. Now I show you another SS-31 report covering a vehicle of the L Nelson & Sons Company shown to have [fol. 989] been inspected and the date shown is 5/2/56, time 10:10 a.m., Route 15, Union, Conn., and the driver's name, I believe, is Smith.

A. Yes.

Q. And do you recognize that as an SS-31 report of the inspection of the vehicle of L Nelson at the same time and place as the other inspections at Union, Conn.?

A. It is.

Q. With respect to that vehicle, there is a criticism of driver's log and mechanical criticism.

A. The driver had no log with him and he had no doctor's certificate.

Exam. Baumgartner: Did you participate in making this inspection?

The Witness: No, I did not.

Exam. Baumgartner: You are just testifying as to what that report reflects, not as to the facts.

The Witness: That was prepared by Mr. LaCour.

By Miss Kelley:

Q. But there are no criticisms on the load.

A. Not that I notice on that, no.

Q. Now, Mr. Shea, since May 2 of 1956, have you engaged in other inspections at either Union, Conn. or at other points of the vehicles of the L Nelson & Sons Transportation Company?

A. I have.

Mr. Mueller: I object, Mr. Examiner. This is beyond the scope of direct.

[fol. 990] Exam. Baumgartner: Well, she just asked him if he had done so. Now let's wait and see what the next question is, Mr. Mueller.

By Miss Kelley:

Q. Do you recall on what dates since May 2, 1956 you have inspected vehicles of the L Nelson & Sons Transportation Company?

A. I don't recall the dates.

Q. I now show you—

Mr. Mueller: Mr. Examiner, Miss Kelley is now apparently going into another series of inspection reports.

Exam. Baumgartner: What inspection do you maintain that these reports you have in your hand relate to, what day?

Miss Kelley: I show it to refresh Mr. Shea's recollection. The date is shown as May 4, 1956 and he is shown as the inspector on this report.

The Witness: That was the same check only on a different date.

Exam. Baumgartner: Part of the same check?

The Witness: We were there for three days.

Exam. Baumgartner: You may answer.

By Miss Kelley:

Q. Mr. Shea, this SS-31 report shows the vehicle to be L. Nelson & Sons Transportation Company, inspected on May 4, 1956 at Route 15, Union, Conn. Is there any criticism of the lading that was on that vehicle?

A. No criticism of the lading.

[fol. 991] Exam. Baumgartner: That was signed by whom?

Miss Kelley: Signed by Mr. Shea as the inspector.

By Miss Kelley:

Q. Mr. Shea, I show you another inspection report of the L. Nelson & Sons Transportation Company, also dated May 4, 1956, and the time shown is 11:50 a.m., inspection took place at Route 15, Union, Conn., and I believe it was shown to have been inspected by Mr. LaCour.

A. True.

Q. From your knowledge of the reports of the Commission, is there any criticism of the lading that was carried on that vehicle at the time of the inspection?

Exam. Baumgartner: As shown by the report.

Miss Kelley: As shown by the report.

The Witness: Not on the lading, no.

By Miss Kelley:

Q. Mr. Shea, I show you another SS-31 report dated May 4, 1956, time 10 a.m., place of inspection, Route 15, Union, Conn., and that is a vehicle of the L. Nelson & Sons Transportation Company, is that correct?

A. Right.

Q. And that is shown to have been inspected by Mr. LaCour.

A. Correct.

Q. From your knowledge of the forms of the Commission, would you state that there is no criticism of the lading carried on that vehicle according to this report?

A. The only notice of lading, it says, "Wool, Rockville,



[fol. 992] Conn. to Woonsocket, R. I." Apparently there is no criticism of the lading.

Exam. Baumgartner: You mean the report shows no criticism.

Miss Kelley: What I asked him was what the report shows.

By Miss Kelley:

Q. Mr. Shea, I show you another inspection report of the vehicle of L. Nelson & Sons Transportation Company, shown inspected 5/4/56 at 10 a.m., Route 15, Union, Conn., and the driver is shown as Edwards and that was inspected by you, Mr. Shea.

A. Correct.

Q. Now in making out this report, Mr. Shea, is it correct that you had no criticism of the lading carried on that vehicle?

A. Correct.

Q. Now, Mr. Shea, I show you another SS-31 report on 5/4/56. It shows inspection of vehicle of the L. Nelson & Sons Company, date was 5/4/56, time 9 a.m., Route 15, Union, Conn., and this, likewise, shows an inspection by you, doesn't it, Mr. Shea?

A. Correct.

Q. And is it true that this report shows no criticism of the lading carried on the vehicle?

A. No, no criticism of the lading on that particular report.

Q. Mr. Shea, do you recall any other occasions since May 2, 1956 when you inspected vehicles of the L. Nelson & Sons Company?

A. Yes, I do.

[fol. 993] Q. At road checks?

A. At road checks.

Q. When?

A. I can't remember the dates. I think at Brim field.

Exam. Baumgartner: Was that some time subsequent to this road check of May 2, 3 and 4?

The Witness: I think it was, Mr. Examiner.

[fol. 994] By Miss Kelley:

Q. Mr. Shea, have you also examined vehicles of the Gilbertville Trucking Company since May 2, 1956 in various road checks?

Mr. Mueller: Objection, same reason.

Exam. Baumgartner: Let him answer. He hasn't said yes or no. Maybe we will get a no answer and won't have to worry.

The Witness: No, on Gilbertville Trucking.

By Miss Kelley:

Q. Do you recollect making such an inspection on August 23, 1956 at Brimfield, Mass. in the vehicle of Gilbertville Trucking Company?

Exam. Baumgartner: Do you recollect it?

The Witness: I recollect making some inspections of Gilbertville and Nelson trucks, but I don't recollect where and the date I made them.

Exam. Baumgartner: Was it some time subsequent to May?

The Witness: It was subsequent to May 2, 3 and 4.

[fol. 995] By Miss Kelley:

Q. Now prior to May 2, 1956, Mr. Shea, had you, at various times, inspected vehicles of the E. Nelson & Sons Company?

A. I have.

Exam. Baumgartner: You mean times or occasions other than those to which he testified on direct?

Miss Kelley: Yes, other than those to which he testified on direct.

Mr. Mueller: Objection, Mr. Examiner.

By Miss Kelley:

Q. And, Mr. Shea, do you also recall inspecting the vehicles of the Gilbertville Trucking Company at various times and places other than those that you have testified to on direct?

A. Prior to May 2, yes.

Exam. Baumgartner: Other than those you testified to on direct?

The Witness: Yes.

Mr. Chilberg; I would like the ICC to know I appreciate their checks and I might be one in many that do.

Miss Kelley: That is all I have, Mr. Examiner.

Redirect examination.

By Mr. Mueller:

Q. Mr. Shea, on the occasion of your first visit to the Gilbertville terminal, did you find a terminal at an address on Hardwick Road in the town of Gilbertville?

A. I did not.

[fol. 996] Q. Did you have some difficulty finding the place?

A. I did.

Q. And where did you ultimately find it?

A. I found the terminal at the Ware Airport, Ware, Mass.

Exam. Baumgartner: Mr. Shea, is this Hardwick Road at Gilbertville a mailing address or does that purport to give the location of the terminal?

The Witness: According to our records, it is supposed to give the location of the terminal.

Exam. Baumgartner: A great many people confuse mailing addresses with locations.

The Witness: They had a mailing address.

Miss Kelley: Mr. Examiner, I might state that a P. O. number is given as the mailing address, and it is my understanding that Hardwick Road is definitely a street address on which the terminal is located.

[fol. 999] The Witness: Gilbertville is a community in the town of Hardwick and it is right on the southern border of the town of Hardwick. As you come out of Gilbertville, you cross a bridge and you are immediately in the town of Ware; then you go along down a short distance and you

go through another town by the name of Braintree and then you go back in the town of Ware. I am talking about Route 83.

Exam. Baumgartner: Does Gilbertville have a Post Office?

The Witness: Gilbertville has a Post Office.

Exam. Baumgartner: Does Hardwick have a Post Office?

The Witness: I believe it has.

Exam. Baumgartner: Does Ware have a Post Office?

The Witness: It has. Ware is a town by itself. It is a good-sized town.

Exam. Baumgartner: Well, I think it is pretty well covered in the record where Ware is and where the terminal is and you people have to make the most of it in your briefs.

By Mr. Mueller:

Q. Is there any particular point in going in the back door of the premises at Ellington, Conn. on the occasion of your first visit or was it merely a matter of convenience?

A. It was the most convenient. We saw others using the same door.

Q. Now when you interviewed this driver at North Somers on the 10th of November, 1954, did you talk with him?

[fol. 1000] A. Yes.

. . . . .

[fol. 1001] By Mr. Mueller:

Q. Did you ascertain from the driver where he had originated his trip?

A. I did.

Q. And where was that?

A. He told me he started at Ellington, Conn. at the Rockville terminal.

Q. Did he tell you where he was bound when you saw him?

A. He said he was on a Gilbertville trip to Pittsfield, Mass.

Q. Did you ask him whether he was going through Monson, Mass.?

A. I did.

Q. What did he say?

A. He said he did not go through Monson, Mass.

Q. And was he going through Monson on the day in question?

Miss Kelley: I object, again, to this question.

Exam. Baumgartner: Wait a minute, Miss Kelley. How would this witness know whether he went through Monson?

Mr. Mueller: I am merely asking him about the conversation, Mr. Examiner.

Miss Kelley: I move that all these questions be physically stricken from the record as improper and purely hearsay.

[fol. 1002] Exam. Baumgartner: I will have to deny the motion, Miss Kelley. I have permitted it to go in subject to your objection and if it turns out in the briefs that are written that I was wrong about permitting it, it will be completely disregarded in the disposition of these matters.

By Mr. Mueller:

Q. May we have an answer to the last question, which was whether the driver indicated that he was or was not going through Monson on the day in question?

A. He said he was not going through Monson. He said he was going on Route 83 to U.S. 5 to Springfield, to Holyoke, then west on Route 9 to Pittsfield and return over the same route.

Exam. Baumgartner: You don't know whether he went that way or not, do you?

The Witness: Not of my own knowledge, Mr. Examiner.

Mr. Mueller: That is all, Mr. Examiner.

Exam. Baumgartner: Any other recross, Miss Kelley?

Recross examination.

By Miss Kelley:

Q. Was that the only day on which you inspected that vehicle of that driver, November 10?

A. That is correct.

Q. And that was November 10, 1954, is that correct?

A. Yes.

Miss Kelley: That is all.

Further redirect examination.

By Mr. Mueller:

Q. Now on that point, Mr. Shea, you now say unequiv-  
[fol. 1003] ocaly you never inspected that vehicle or that  
driver on any other occasion.

A. I may have misunderstood Miss Kelley, but I thought  
she referred to the same time and place and location.

Miss Kelley: That was how I intended to restrict it at  
that point on that route.

Mr. Mueller: If that was the question, I withdraw my  
objection.

The Witness: I never recall inspecting that driver or  
that vehicle on that route again.

Mr. Mueller: That is all.

Exam. Baumgartner: Well, Mr. Shea, you may be ex-  
cused subject to call in the morning.

(Witness temporarily excused.)

(Short recess.)

Exam. Baumgartner: Let us come to order, please.

JOSEPH H. LaCOUR was sworn and testified as follows:

Direct examination.

By Mr. Mueller:

Q. Mr. LaCour, will you state your name and address for  
the record.

A. Joseph H. LaCour.

Q. What is your occupation and business?

A. District Supervisor and Examiner for the Interstate  
Commerce Commission.

[fol. 1004] Q. How long have you occupied that position,  
Mr. LaCour?

A. Twenty-odd years.



Q. And at what point is your office located?

A. 420 Federal Building, Springfield, Mass.

Q. Are you what is known as a District Supervisor?

A. I am.

Q. You have a territory assigned to you?

A. I do.

Q. Can you tell us roughly what it comprises?

A. Points in Massachusetts west on and west of Mass. highway 12.

Q. How long have you lived in Springfield and vicinity?

A. More than 20 years.

Miss Kelley: I object, it is immaterial.

By Mr. Mueller:

Q. Prior to going with the Commission, did you have a position with another agency?

A. I did.

Q. Namely?

A. The Registry of Motor Vehicles.

Exam. Baumgartner: Massachusetts?

The Witness: Yes, sir.

By Mr. Mueller:

Q. Now, Mr. LaCour, you were present during all of Mr. Shea's testimony, I believe.

A. I was.

Q. And did you participate in questioning Kenneth Nelson [fol. 1005] son and other employees at Ellington, Conn. on November 9 and 10, 1954?

A. I did.

Q. Now, Mr. LaCour, Mr. Shea mentioned Gilbertville time cards in his testimony. Did you address any questions to Mr. Kenneth Nelson on the subject of apparent overlapping or common using of employees by the two carriers?

Miss Kelley: I object.

Exam. Baumgartner: Would you please establish when and where; include in your question time and place.

Mr. Mueller: I thought I had done that in my preliminary

question. I referred to the period of November 9 and 10, 1954.

Exam. Baumgartner: Oh, I am sorry; I missed that.

Miss Kelley: I object to the question as calling for hearsay.

Exam. Baumgartner: My ruling would be the same as it was previously and subject to your objection.

(Discussion off the record.)

By Mr. Mueller:

Q. I asked you whether you questioned Mr. Kenneth Nelson about an apparent overlapping and common use of employees.

A. I did.

Q. And will you tell us what he said.

[fol. 1007] The Witness: Mr. Nelson stated that an employee might be employed by Gilbertville Trucking Company during a payroll period and by Nelson Trucking Company during the same payroll period, and even during the same day the same situation might exist; let us say, an employee might work for the same companies during the course of the one day.

Exam. Baumgartner: Let me get this straight, you mean the same employee would be working for two masters at the same time?

The Witness: No, sir. During the same day he might work for two masters or during the same payroll period he might work for two masters.

By Mr. Mueller:

Q. Did you ask him for comment upon the duplication of drivers' medical certificates, concerning which there has been testimony here?

Miss Kelley: I object, same grounds.

Exam. Baumgartner: That is part and parcel of the same objection, isn't it, Miss Kelley?

[fol. 1008] Miss Kelley: Yes, sir.

Exam. Baumgartner: The same ruling will stand, but I

think the question was a little bit muddy, to me at least, unclear. What do you mean by a duplication of doctors' certificates?

Mr. Mueller: Well, Mr. Examiner, there has been testimony here that there were medical certificates in the possession—

Exam. Baumgartner: —of both companies for the same driver.

Mr. Mueller: That is another way of saying it, yes.

Exam. Baumgartner: All right, you may answer.

The Witness: Mr. Nelson replied that that was done as a precautionary measure to assure compliance with this Commission's safety regulations.

By Mr. Mueller:

Q. Now did you examine the Gilbertville records to ascertain whether or not Gilbertville actually made use of all of the Nelson drivers for whom it had medical certificates in its file?

A. I did.

Q. And what did you find?

A. I found that some of the Nelson drivers were not used by Gilbertville.

Exam. Baumgartner: What is the other side of the coin, then? You said you found that some of the drivers were not used by Gilbertville; now what is the other side, the affirmative?

[fol. 1009] The Witness: And that some of them were used.

By Mr. Mueller:

Q. Now, Mr. LaCour, were you present with Mr. Shea on November 10, 1954 when the vehicle was stopped and driver Claremont was questioned as indicated by Mr. Shea in his testimony?

A. Yes, I was.

Q. If I asked you the same questions which I asked of Mr. Shea regarding that incident, would your answers be substantially similar to his?

A. Yes.

Miss Kelley: Now I want to object to that because I, frankly, don't know what testimony Mr. Mueller is referring to, Mr. Examiner. He asked certain questions on cross examination and my memory isn't good enough to know all that Mr. Shea said on direct too at this time.

Exam. Baumgartner: Do you mean by that that you want Mr. Mueller to examine Mr. LaCour at length to cover the same ground?

Miss Kelley: What I would like to know, is Mr. Mueller limiting it to the questions that he asked on redirect?

Exam. Baumgartner: No.

Mr. Mueller: Definitely not.

Exam. Baumgartner: I think what he intends to inquire about is whether his answers would be the same as [fol. 1010] Mr. Shea's for the same questions on direct, on cross, on redirect, on recross concerning what?

Mr. Mueller: Concerning the vehicle inspection which occurred at North Somers on November 10, 1954.

Miss Kelley: If Mr. Mueller's understanding of his question is the same as you have just stated it, Mr. Examiner, I will withdraw my objection.

Exam. Baumgartner: I think that is what you intended to ask.

Mr. Mueller: That is right.

Exam. Baumgartner: What is your answer?

The Witness: Yes, with certain exceptions.

Exam. Baumgartner: Substantially the same with certain exceptions.

By Mr. Mueller:

Q. Well, now, Mr. LaCour, will you state your exceptions.

A. As to the location of the vehicle inspection and as to the distances between the point of inspection and the terminal of L Nelson and/or Gilbertville at Ellington, Conn.

Q. What do you say, first, as to the point of inspection?

A. The inspection took place at the intersection of Route 83 and Turnpike Road in North Somers.

Exam. Baumgartner: What is the number on Turnpike Road?

The Witness: That is the name of the street, sir.

Exam. Baumgärtner: It has no number?  
[fol. 1011] The Witness: No number.

By Mr. Mueller:

Q. And the other point was the location.

A. As to the distance from the point of that particular inspection and the terminal of L Nelson and/or Gilbertville at Ellington, Conn. I estimate that distance to be approximately 15 miles. There is one other distance involved in connection with that testimony, and that is the distance between Palmer, Mass. and any portion of Massachusetts and/or Conn. Route 83. It is my contention that no part of the town of Palmer, Mass. is within a radius of 10 miles of Massachusetts and/or Conn. Route 83.

Q. Had you finished your answer?

A. No, I am still working on the exceptions. I have more information than Mr. Shea testified to with respect to the lading.

Miss Kelley: I object to this, Mr. Examiner. It was a general question. The way it was phrased, you would anticipate it was going to be an exception. Now we are going on into, apparently, a long recitation on things that I have no opportunity to object to.

Exam. Baumgärtner: Well, have you any other exceptions other than those that you have already mentioned?

The Witness: Those two things, Mr. Examiner, the exact location, the distances, which I mentioned, and the lading on the vehicle.

[fol. 1012] Exam. Baumgärtner: In addition to those three items, do you have any other exceptions?

The Witness: Well, at this instance, I can't recall of any others. I am trying to recall, as I am testifying, what Mr. Shea said.

Exam. Baumgärtner: Well, Mr. Mueller, you will have to do some inquiring about the lading.

By Mr. Mueller:

Q. Well, now, Mr. LaCour, what do you say about the lading on the vehicle in question?

A. There were three shipments, as I recall it.

Exam. Baumgartner: Now that is this one inspection when the vehicle was where, at Somers?

The Witness: At the intersection of Conn. highway 83 and Turnpike Road in North Somers, Conn. on November 10, 1954.

By Mr. Mueller:

Q. Now will you tell us about the lading.

Miss Kelley: May I see the memorandum Mr. LaCour is using and ask whether it is written.

Exam. Baumgartner: Let the record show that the witness, in beginning his answer, was referring to a document for the purpose of refreshing his memory at that time, is that right, Mr. LaCour?

The Witness: That is correct, sir.

Exam. Baumgartner: And that Miss Kelley has just inspected the document.

By Mr. Mueller:

Q. Mr. LaCour, is the paper you refer to consisting of [fol. 1013] some handwritten notes?

A. It does.

Q. And they were prepared by you and are in your handwriting.

A. They were.

Q. And prepared in conjunction with the incident we are now discussing.

A. At the time and place of the inspection. The lading consisted of a shipment which was described on the pro No. 9685, dated 11/9/54 as one 54-inch face, 14-inch diameter, paper roll for Van Slanderson Embossing Machine. The shipment originated at Patterson, N. J. and was consigned to a consignee at Holyoke, Mass. The shipment weighed 1,000 pounds.

Q. Did the papers you saw indicate the point of receipt of the shipment by Gilbertville?

A. My notes do not reflect that the papers covering this particular shipment indicated the point of interchange. There were two other shipments on this vehicle which I am about to describe. There is another shipment which con-



sisted of 43 pouches of wool mix 253, which weighed 7580 pounds. They were covered by pro No. 10624, dated 11/9/54. It showed the movement of this wool mix from Clifton Heights, N. J. to Pittsfield, Mass. That particular pro about which I am now speaking carried a notation to the effect that the shipment was received from Nelson at Monson, Mass. There was another shipment which consisted of one 50-pound pail of putty. The shipment was [fol 1014] covered by pro No. 9667, dated 11/9/54. The shipment originated at Brooklyn, N. Y. and was destined to Pittsfield, Mass. This particular pro carried no information as to the interchange point.

Q. Had you finished your answer?

A. My notes do not indicate, but my best recollection of it is that all of these pros were those of Gilbertville Trucking Company.

Q. Where is the point at which this examination was made, Mr. LaCour, as related to Monson, Mass.?

A. You mean the distance?

Q. The distance.

A. Which part of Monson, Mass. are you referring to?

Q. Well, is Monson, Mass. a large community?

A. It is a typical New England-type town.

Q. What would be the nearest distance from the nearest border of Monson, Mass. to the point of this inspection?

A. I would fix it at 12 miles, but I am not at all certain. I would have to measure that.

Q. Did you hear the questions that were put to Mr. Shea, Mr. LaCour, regarding the questions that were put to the driver regarding his usual practices in respect to his route?

A. I did.

Q. And if I asked the same question of you, would you give the same answer?

[fol. 1015] A. Yes, sir.

Q. Have you ever investigated to see whether the L Nelson & Sons Transportation Company or the Gilbertville Trucking Company have a terminal facility of any kind at a point called Monson, Mass.?

A. I have.

Q. Did you find any there?

A. No, sir.

Q. Mr. LaCour, now referring again to your visit, in company with Mr. Shea, to the Ellington, Conn. terminal on November 9, 1954, did you participate in the questioning of Kenneth Nelson about the missing teletype tape?

A. I did.

Miss Kelley: I object.

Mr. Mueller: I merely asked whether he participated.

By Mr. Mueller:

Q. Did you ask him for a file of such records?

A. I did.

Exam. Baumgartner: File of what records?

By Mr. Mueller:

Q. Teletype tapes. What was the result of that request?

A. Mr. Nelson could not or would not produce such records.

Exam. Baumgartner: Now which is it, Mr. LaCour, you said would not or could not; there is a big difference.

The Witness: He didn't produce the records in response [fol. 1016] to our request for them.

\* Exam. Baumgartner: He did not?

The Witness: He did not.

Miss Kelley: May we have the previous answer stricken?

Exam. Baumgartner: He has corrected it now.

By Mr. Mueller:

Q. Mr. LaCour, you have heard Mr. Shea's testimony relative to the leasing practices and arrangements for vehicle rentals between Nelson and Gilbertville as ascertained on your joint investigation of November 9 and 10, 1954.

A. Yes.

Q. Can you add anything to what Mr. Shea has told us on that subject?

Miss Kelley: I object, Mr. Examiner, it is such a broad question. It doesn't give any basis for knowing what the witness is expected to testify to.

Exam. Baumgartner: I think that is pretty broad.

Mr. Mueller: I was hoping, Mr. Examiner, I could shorten up some of this procedure.

Exam. Baumgartner: I realize and I appreciate it, but at the same time, we have got to preserve the rights of the parties.

By Mr. Mueller:

Q. At that time, Mr. LaCour, were you told what the compensation arrangement was as between the carriers for the rental of vehicles?

A. I was.

[fol. 1017] Q. And what were you told; if you now remember?

A. That L Nelson & Sons received 60 percent of the revenue and that Gilbertville Trucking Company received 40 percent of the revenue, regardless of the length of the haul by either company, and also regardless of whether the shipment originated over the lines of Gilbertville or of Nelson and also regardless of whether the shipment was prepaid or collect.

Miss Kelley: Mr. Examiner, can I inquire was that with respect to interchange? The question, as I heard it, did not relate to interchange.

Exam. Baumgartner: I thought it did, Miss Kelley.

Miss Kelley: May we have the question?

Exam. Baumgartner: I am sure the answer related to interchange.

Miss Kelley: I don't think it is responsive.

(Question and answer read.)

Exam. Baumgartner: I understood he meant division when he said compensation.

The Witness: I understood that to mean divisions of joint revenues.

Exam. Baumgartner: Told by whom?

The Witness: Kenneth Nelson.

By Mr. Mueller:

Q. And the answer you have given to my question does relate to the division arrangement.

A. Division of joint revenues.

[fol. 1018] Q. Mr. LaCour, have you had occasion, in the course of your twenty-year career with the Interstate Commerce Commission, to obtain a knowledge as to the customary practices in the industry as to the arrangements for divisions between motor carriers?

Miss Kelley: I object, Mr. Examiner.

Exam. Baumgartner: Well, he is just being asked whether or not he has had occasion to learn of the customs and practices of motor carriers with respect to divisions. All he has to do is answer yes or no. There is nothing damaging in that yet. You may answer.

The Witness: Yes.

By Mr. Mueller:

Q. On the basis of that knowledge and experience, I would like to ask you whether you would regard the 60-40 arrangement as an unusual one.

Miss Kelley: I object, Mr. Examiner.

Exam. Baumgartner: He may answer. Even though he may regard it as unusual, that doesn't make it so unusual.

[fol. 1020] The Witness: I would.

By Mr. Mueller:

Q. What have you found to be the customary practice over the area over which you have jurisdiction with respect to divisions of revenue on interline shipments?

Miss Kelley: I object on the same grounds.

Exam. Baumgartner: Well, subject to the objection, you may answer, Mr. LaCour.

The Witness: Customarily, a pro rata basis is used, depending upon the length of the haul and certain other factors.

By Mr. Mueller:

Q. Now, Mr. LaCour, have you heard the testimony on this record that the compensation for vehicles leased be-

tween these carriers was a flat amount ranging from \$15 to \$20 to \$25 per unit?

A. I have.

Q. Now at some time after your visit with Mr. Shea to the Ellington terminal, did you make a visit by yourself to the premises of Nelson's and Gilbertville at Ellington?

A. I did.

Q. Will you recall the date of that visit.

A. November 8, 1955.

Q. Did you at that time discuss rental arrangements for equipment with Mr. Kenneth Nelson or Charles Chilberg or any of the parties?

[fol 1021] A. I did.

Q. Was Mr. Charles Chilberg present?

A. He was.

Q. In that conversation?

A. He was.

Q. Did he speak on the subject?

A. He did.

Q. Will you tell us what he said.

Miss Kelley: Objection.

Exam. Baumgartner: Again he may answer, subject to the objection.

The Witness: Mr. Chilberg stated that the flat fee arrangement had been discontinued and in substitution therefor, a charge of 9 cents per tractor mile was now being made and a charge of 3 cents per semitrailer mile was being made.

By Mr. Mueller:

Q. Was anything said on the subject of leasing straight trucks?

A. I don't recall that any straight trucks were involved in the leases.

Q. Did you inquire into the matter of division on the occasion of your visit on November 8, 1955?

A. What divisions, Mr. Mueller?

Q. Divisions of revenue between Gilbertville and Nelson.

Exam. Baumgartner: On joint traffic?

Mr. Mueller: Interline traffic.

[fol. 1022] The Witness: I think I have already testified as to that.

By Mr. Mueller:

Q. I am now addressing my question to the subsequent visit on November 8, 1955.

A. You are not concerned with the amounts?

Q. No.

A. Yes. At that time I inquired as to the status of the settlement, the divisions between the two companies.

Q. And who was present?

A. Mr. Chilberg and Mr. Nelson.

Q. Can you state whether as of November 8, 1955 there was any money owing from one or the other of these carriers to the other?

A. I can.

Q. Will you please tell us what you learned.

Miss Kelley: I object. I understood Mr. LaCour's answer to be I cannot.

The Witness: I said I can.

Exam. Baumgartner: There is a question pending: you may answer.

The Witness: By examination of the records and through conference with Mr. Chilberg and Mr. Nelson, I ascertained that in round figures Nelson owed Gilbertville \$39,000.

Exam. Baumgartner: As of what date?

The Witness: November 8, 1955.

Exam. Baumgartner: Right up to the date of your inquiry.

[fol. 1023] The Witness: That was my understanding, yes, sir.

By Mr. Mueller:

Q. To clarify the record, when you refer to Mr. Chilberg, do you mean the Mr. Charles Chilberg who is now in the room?

A. Yes, sir.

Q. And the other gentleman was Mr. Kenneth A. H. Nelson.



A: That is correct.

Q. Mr. LaCour, did you at that time, namely November 8, 1955, examine the lease forms being currently used by these carriers in interchanging equipment?

A. I did.

Q. Were you supplied by them with a sample form of lease?

A. Yes, sir.

Q. And have you caused copies of this sample form to be made for introduction as an exhibit here?

A. I have.

Mr. Mueller: Mr. Examiner, I respectfully request that the Agreement, Contract and Lease referred to by Mr. LaCour be marked for identification as Exhibit No. 33.

(Government's Exhibit No. 33, Witness LaCour, was marked for identification.)

. . . . .

[fol.1028] Direct examination.

By Mr. Mueller:

Q. Mr. LaCour, at the close of your testimony at our last session, I believe we had just had your Exhibit No. 33 marked for identification, and we had been discussing interline settlements between L. Nelson & Sons and Gilbertville, and rentals for equipment.

As I recall, you stated that from an examination of records and questioning of Messrs. Nelson and Chilberg, you found that there were some \$39,000 owing from Nelson to Gilbertville in the way of interline settlements, was that your statement?

A. That's correct.

[fol. 1029] Q. Now, did you also examine the accounts having to do with equipment rentals, and discuss that subject with these gentlemen?

A. I did.

Q. What did you find?

A. That in round figures, Gilbertville owed Nelson \$19,000 for equipment rentals.

Exam. Baumgartner: Is that round figures, or is that exact?

The Witness: That's round figures, sir.

By Mr. Mueller:

Q. Now, what was the source of Exhibit 33?

A. Exhibit 33, being the lease, it was handed to me by Mr. Nelson as a typical illustration of the form of the lease and procedure followed in leasing vehicles.

Q. Will you describe this Exhibit for the record, please, Mr. LaCour?

Take first the first page, please.

A. It is a printed form—

Exam. Baumgartner: Now, just a moment. You think, Mr. Mueller, that this needs explanation, or does it speak for itself?

Mr. Mueller: I think it speaks for itself insofar as Page 1 is concerned, but I thought it might be desirable, Mr. Examiner, to have an explanation of pages 2 and 3 of the [fol. 1030] Exhibit.

Exam. Baumgartner: Very well.

By Mr. Mueller:

Q. The first page is the contract itself, the contract to lease certain described motor equipment, is that so, Mr. LaCour?

A. Yes.

Q. And the document is executed on behalf of Gilbertville by someone.

A. It is.

Q. Would you know who the person is whose signature is there affixed?

A. No, I do not; I cannot make it out.

Q. Would you know who the person is who signed on behalf of Nelson & Sons?

A. One Betty Jane Bergstrom.

Q. Now, what is the second sheet of this Exhibit, Mr. LaCour?

A. It is a report of vehicle inspection.

Q. And that's executed on behalf of which carrier?

A. Gilbertville.

Q. And the first sheet relates to what, to what unit of equipment?

A. The first sheet, or the second sheet?

Q. I beg your pardon, Mr. LaCour, the second sheet of the Exhibit 33, what does it relate to?

A. It relates to an International tractor, 1951.

[fol. 1031] Q. And what does the third sheet relate to?

A. To a Fruehauf semi-trailer, 1954.

Q. And, if you know, whether there are requirements of the Interstate Commerce Commission relating to the execution of such inspection reports?

A. There are.

Q. Now, in the course of your visit on November 8, 1955, Mr. LaCour, did you examine other instruments such as this?

A. Yes, there were countless hundreds of these documents available for inspection.

Q. Did you inquire or investigate the subject of insurance placement on the occasion of your visit of November 8, 1955?

A. I did.

Q. And what did you find?

A. Found that the public liability and property damage insurance coverage for both companies was placed with Liberty Mutual Insurance Company; that is, as of November 8, 1955.

Q. Now, Mr. LaCour, you have heard Mr. Shea's testimony, and the testimony of certain other witnesses concerning the physical layout of the premises at Ellington, Connecticut, on November 9 and 10, 1954.

I would like to inquire whether you observed any changed in that layout in the course of your subsequent visit on November 8, 1955?

[fol. 1033] A. As I entered in the same door which we had used before, I noticed that these changes; (1) that a receptionist had been added, and that the teletype machines had been removed and replaced with a telephone switchboard.

Q. Now, on the occasion of this latter visit, later visit, did you have occasion to discuss the removal of the teletype machine with anyone?

A. Yes, I did.

Q. With whom?

A. Mr. Nelson and Mr. Chilberg, Mr. Kenneth Nelson.

[fol. 1037] . . . By Mr. Mueller:

Q. Do you now recall the question, Mr. LaCour?

A. No, I'm afraid I don't.

Q. Which was the conversation between you and Messrs. [fol. 1038] Kenneth Nelson and Charles Chilberg on the subject of the teletype machines.

Exam. Baumgartner: State the exact language used as nearly as you can, Mr. LaCour. It's difficult to do that, of course, I realize that, but as nearly as you can recall.

The Witness: I was told that—

Miss Kelley: I object, may I, in the manner of the answer in view of your instructions to the witness.

Mr. Mueller: Well, the answer hasn't been given yet, I submit, Mr. Examiner.

Exam. Baumgartner: Well, I want to ask this question.

Was this statement about the teletype volunteered to you, or did you make an inquiry?

The Witness: I made an inquiry.

Exam. Baumgartner: What was the inquiry?

The Witness: Why telephone service had been substituted.

Exam. Baumgartner: To whom was this inquiry addressed?

The Witness: Messrs. Chilberg and Nelson.

Exam. Baumgartner: Mr. Charles Chilberg and—

The Witness: And Kenneth Nelson.

Exam. Baumgartner: Were they together?

The Witness: They were.

Exam. Baumgartner: And you addressed the question to both of them?

The Witness: I did.

[fol. 1039] Exam. Baumgartner: All right, you may proceed now.

What were you told as nearly as you can remember, and by whom were you told?

The Witness: I was told by Mr. Kenneth Nelson in the presence of Mr. Charles Chilberg that direct telephone service had been substituted for the teletype service previously used because teletype service was found to be very slow and required the use of a skilled operator.

By Mr. Mueller:

Q. Was there any other conversation on the subject?

A. Not that I recall.

Q. Was anything said on the subject of thwarting an investigation?

Miss Kelley: Well, the witness may answer subject to your objection.

The Witness: Yes; Mr. Kenneth Nelson said that he had heard a rumor to the effect that one of our employees—

By Mr. Mueller:

Q. By "our" you mean the Commission?

A. That's right, sir.

—had been thwarted in another case when attempting to obtain evidence in the form of teletype messages, and that he had been thwarted because the person, not named, had destroyed the teletype messages.

Exam. Baumgartner: Was it this said statement that you entered into conversation with him about the substitution of telephone service for teletype service?

The Witness: It was, sir.

Exam. Baumgartner: Why was that statement made?

The Witness: I haven't any idea; it was volunteered by Mr. Nelson.

Exam. Baumgartner: All right, proceed, Mr. Mueller.

By Mr. Mueller:

Q. Did you discuss the subject of operations to and from points in Massachusetts, west of the Connecticut River, with Mr. Chilberg and Mr. Kenneth Nelson on the occasion of your November 8, 1955, visit?

A. Yes, I did.

Q. Do you recall such a conversation?

A. Yes, I do.

Q. And can you now tell us the conversation?

A. Mr. Chilberg stated in response to our discussion concerning movements between points in western Massachusetts and the Philadelphia area, that he had a shipper whose domicile to the Philadelphia area which moved considerable traffic over his line, and that that shipper then wanted service to points in Massachusetts west of the Connecticut River, and that that could be served only through interchange with Gilbertville after it had acquired the Wolf Certificate.

Q. Now, Mr. LaCour, were you involved in road checks conducted by Commission personnel and others on May 2, 1956, at Union, Connecticut?

[fol. 1041] A. Yes, sir.

Q. Was Mr. Shea also at that check?

A. Yes, sir.

Q. And in the course of that road check, did you have occasion to examine vehicles of either of the principals to this proceeding?

A. Yes, sir.

Q. And in connection with that check, did you also, did you prepare a report?

A. I did.

Q. And did you also obtain certain documentary evidence such as pros?

A. I did.

Q. Mr. LaCour, I'll hand you a sheet of, a sheaf, of papers which we will ask to have marked for identification as Exhibit No. 34.

Miss Kelley: Mr. Examiner, the method of offering these exhibits all as one number raises a question in my mind in that when the various exhibits are offered, I may have objections to one of these papers and not object to certain of the other papers that make up this exhibit; and I wonder if it isn't going to cause complication and difficulty on the record.

Exam. Baumgartner: I doubt it, Miss Kelley, because



when we come to that point, if you object to Sheet No. 4 of Exhibit 34, why, I think it will be plain enough on the [fol. 1042] record; and if it's excluded, why, the record will show that Sheet No. 4, and so on, was to be excluded.

Miss Kelley: I just thought it would be advisable to bring it up at this time.

Exam. Baumgartner: Now, there are a group of documents consisting of 6 sheets, 2 of them being pros of Gilbertville Trucking Company, 3 sheets pertaining,—

Miss Kelley: You're in error in your last statement, Mr. Examiner; one being a pro of Gilbertville Trucking and one of Nelson & Sons.

Exam. Baumgartner: I'm sorry. One being a pro of Gilbertville Trucking, and one Nelson Company; and the next 3 sheets of the exhibit constitute one document, being a Driver-Equipment Compliance Check report on form, what is it?

The Witness: SS31.

Exam. Baumgartner: And the last sheet being apparently an agreement, contract and lease, so entitled, will be marked as Exhibit 34 for identification.

(Commission's Exhibit No. 34, Witness LaCour, marked for identification.)

By Mr. Mueller:

Q. Now, Mr. LaCour, will you describe first that part of Exhibit No. 34 which is designated as Driver-Equipment Compliance Check.

A. This is a printed form numbered SS 31 by the Interstate Commerce Commission.

[fol. 1043] Q. And were the entries thereon made at the time of inspection of the vehicle described on the form?

A. Yes, sir.

Q. Now, what was the date of the instrument?

A. May 2, 1956.

Q. And does it show the time?

A. It does, 11:00 a.m.

Q. And does it describe the vehicle?

Exam. Baumgartner: Well, at Union, Connecticut?

Mr. Mueller: Yes.

By Mr. Mueller:

Q. Does it describe the place of inspection?

A. Route 15, Union, Connecticut.

Q. And does it show the name of the carrier?

A. It does.

Q. And does it describe the vehicle further?

A. It does.

Q. Now, what type of tractor was it?

A. An International tractor, and Strick semi-trailer.

Q. And does it show the name of the driver?

A. It does.

Q. And does it show the name of the date of his doctor's certificate?

A. It does, 12/12/53.

Q. Would that entry indicate that you saw the doctor's certificate at that time that the driver exhibited it to you? [fol. 1044] A. It does.

Q. Now, I notice certain check marks down through the items having to do with the various phases of the condition of the equipment.

Is there any criticism?

A. The check marks indicate there were no defects. The "X C" under Service (Foot) Brake indicates it was not checked.

Q. And does the instrument contain the signature of the driver?

A. It does.

Q. And what does that signature of the driver on the instrument signify?

A. Acknowledges receipt of a copy of this form.

Q. And will you describe just how these forms are made out?

A. It's a four-part form.

Q. And made with the use of carbon paper?

A. That's right, sir.

Q. And so, in effect, each copy is a duplicate?

A. Identical.

Q. Now, I note an entry on the SS 31 form and the words "See Notes."

A. Yes, sir.

Q. Did you examine the billing in the possession of the driver in connection with your inspection of the vehicle?

Miss Kelley: I object; can we have an explanation of [fol. 1045] the "See Notes"?

Mr. Mueller: This is preliminary, if you please, Miss Kelley.

Exam. Baumgartner: You'll connect it up, will you, please.

Mr. Mueller: Yes, indeed.

Exam. Baumgartner: All right.

By Mr. Mueller:

Q. Did you also examine the load, that is, the shipment on the vehicle?

A. My answer is yes to both questions.

Q. And to what does your entry "See Notes" refer?

A. That, to me, indicates that I made notes in connection with my inspection of the lading on the vehicle at the time.

Q. Now, can you tell us what you found in respect to the lading and the load, please?

A. I can. These are original notes made at the time and place of the inspection.

The International tractor owned by L. Nelson & Sons was then and there under lease to Gilbertville Trucking Company. There was an identification device attached to both sides of the vehicle, indicating the operator of the vehicle, then and there to be Gilbertville Trucking Company; the device was not numbered; that is to say, the identification device was not numbered.

Exam. Baumgartner: What numbers should have been on there?

The Witness: There are certain regulations which require [fol. 1046] the numbering of identification devices.

Miss Kelley: I'm sorry, I don't follow you. Can you explain that a little more?

The Witness: Leasing regulations require the numbering of identification devices.

Miss Kelley: Like, is that the same like a tractor in a fleet, that each tractor should have a number.

The Witness: No, the device itself should have been serially numbered.

Miss Kelley: I never heard of it before.

Exam. Baumgartner: That is to say, whose name should have been on there?

The Witness: Gilbertville's numbers assigned to identification devices.

Miss Kelley: That is to the placard, that's—

By Mr. Mueller:

Q. You are not referring to the docket number of Gilbertville, of course.

A. No, sir.

Q. This is a serial number that the carrier is required to use in connection with its use of such,

A. Identification devices.

Miss Kelley: What do you call by identification devices, are you referring to the placards that the carriers place on the sides of the doors of each tractor when they lease equipment?

[fol. 1047] The Witness: Yes, I am.

Miss Kelley: To identify it; and those are supposed to have a number, you say?

The Witness: Yes.

Mr. Mueller: May I interject.

By Mr. Mueller:

Q. Was this device wooden, metal, or plastic?

A. It was a plastic device.

Q. Will you proceed, Mr. LaCour.

A. The vehicle, the unit, consisted of an International tractor, bearing L. Nelson Company No. 133, bore Connecticut registration plates No. A-88488. The semi-trailer was a Strick trailer, and it bore Connecticut registration plate T-2298. The vehicle is driven by driver Charles Botti; the lading aboard the vehicle consisted of two shipments. One shipment was covered by an L. Nelson pro N 4822, dated 5/1/56. The shipment originated in Nutley, New Jersey, was consigned to Boston, Massachusetts, and the ship-

ment consisted of 22 bags greased wool, weighing 3,641 pounds.

The other shipment aboard, then and there aboard the vehicle was covered by Gilbertville's pro 58446 A, dated 5/1/56. This shipment originated in New York City, and was consigned to Saxonville, S-a-x-o-n-v-i-l-l-e, Massachusetts; and this shipment consisted of 66 bales greasy wool—no weight was shown on this latter pro.

[fol. 1048] Q. Have you finished?

A. That's all.

Q. Is the first sheet of Exhibit 34 the pro covering the Gilbertville shipment that you have just described?

A. It is.

Q. And is the second sheet of the Exhibit the pro for the L. Nelson & Sons shipment you have described?

A. It is.

Q. And now, will you take up, Mr. LaCour, Sheets 4, 5, and 6 of this Exhibit and describe them for the record?

A. Sheet No. 4 in this particular group is the report of the vehicle inspection, titled "Report of Vehicle Inspection," and it indicates—

Exam. Baumgartner: Will you give the number of the form, please.

The Witness: It's ATA Form No. LVI-1.

Exam. Baumgartner: LVI-1.

The Witness: It may be LVI-1.

This particular document is dated May 2, 1956.

By Mr. Mueller:

Q. Does it cover a part of the equipment which you have described on your Driver-Equipment Compliance Check form?

A. It does.

Q. What portion of the equipment?

A. It covers brakes,—

[fol. 1049] Q. Does it cover the tractor, or the trailer, Mr. LaCour?

A. This covers the semi-trailer.

Just a minute. This covers vehicle bearing company No. 133, which is the International tractor.

Q. And what portion of the equipment is covered by Sheet 5 of the Exhibit No. 34?

A. That covers the semi-trailer.

Exam. Baumgartner: They both cover the same trailer?

The Witness: No, sir; the Sheet No. 4 covers the tractor. You'll note that under "Make," it says 133.

Exam. Baumgartner: Yes.

The Witness: You'll recall that I testified the tractor bore company No. 133.

Exam. Baumgartner: Yes.

By Mr. Mueller:

Q. And does the fifth sheet of the Exhibit cover the trailer?

A. Covers the semi-trailer.

Q. T-143?

A. It does, sir.

Q. And the sixth sheet of the Exhibit is what?

A. Is the Agreement, Contract and Lease entered into.

Q. And does it cover the 2 units of equipment which you have previously described?

A. It does.

Q. And what does the instrument indicate the date and [fol. 1050] time of its execution?

A. Yes, it does.

Q. Will you state it?

A. The time is shown as 9:00, it doesn't indicate whether it's a.m. or p.m.; yes, I believe it does. It would indicate that this agreement was executed at let's see, 9:00 a.m., on May 2, 1956.

Exam. Baumgartner: Where do you find that, Mr. LaCour?

The Witness: Under Item 2, following the words, or word, "Witnesseth."

By Mr. Mueller:

Q. Will you read Item 2?

A. "The date of the end of this Agreement shall be;"—  
Wait a minute, now; I'm wrong.

Q. Do you wish to correct your statement, Mr. LaCour?



A. I do. The time and date of the beginning of this agreement shall be 8:30 a.m., May 2, 1956; and the date of the end of the agreement shall be 9:00 p.m., May 2, 1956.

Q. And does the instrument contain certain signatures?

A. It does.

Q. Purporting to be on behalf of Gilbertville and L. Nelson & Sons?

A. It does.

[fol. 1064] Cross examination.

By Miss Kelley:

Q. Mr. LaCour, you stated that your territory, that you have a limited territory that comes under your jurisdiction, is that correct?

A. My territory is located in Massachusetts; and consists of that part of Massachusetts on and west of Massachusetts Highway 12.

Q. Now, is the terminal at Gilbertville, Massachusetts, within your territory?

A. Yes, ma'am.

Q. And is it by virtue of that location and the Gilbertville Trucking Company's address at that location as their [fol. 1065] principal address the reason that that company comes under your jurisdiction?

A. It is.

Q. Now, is it correct that the L. Nelson & Sons Company, by virtue of its principal location in Connecticut, is outside of your jurisdiction, and does come under the jurisdiction of the Hartford office of the Interstate Commerce Commission, which is attached to the New York, or District 2, office?

A. I'm afraid I don't understand the question.

Mr. Mueller: Mr. Examiner, I don't get the relevancy of these questions.

Exam. Baumgartner: I think I'll permit the witness to answer.

By Miss Kelley:

Q. You recognize that L. Nelson & Sons is a Connecticut corporation?

A. Yes, I do.

Q. And its principal location is at Ellington, Connecticut?

A. It is.

Q. What district office of the Commission has jurisdiction over Ellington, Connecticut, and carriers domicile at that point?

A. The New York, New York, District Office.

Q. Now, in connection with your investigation, did you check the records of the Commission at their Hartford, Connecticut, office with respect to the location of Gilbertville Trucking Company's records at Ellington, Connecticut?

Mr. Mueller: Mr. Examiner, I'm confused.

Exam. Baumgartner: Well, she's just asking if he checked the records.

Mr. Mueller: With respect to the Gilbertville Trucking Company in Hartford?

Miss Kelley: Yes.

Exam. Baumgartner: Yes; whether or not he had checked the records at the Hartford, Connecticut, office of the I.C.C. with respect to the location of the Gilbertville Trucking Company's records at Ellington.

Mr. Mueller: I withdraw the objection.

The Witness: As I understand it, you want to know if I examined some records regarding Gilbertville at the Hartford, Connecticut, office.

By Miss Kelley:

Q. Yes.

A. No, I did not.

Q. Did you check with Mr. Noble, or Mr. Edmunds, attached to the Hartford, Connecticut, office to learn whether or not they had made visits upon the Gilbertville Trucking Company at Ellington, Connecticut?

[fol. 1067] The Witness: No.

By Miss Kelley:

Q. Did you make a check of the Commission's files with respect to notices or letters addressed to the Commission by the Gilbertville Trucking Company?

A. I did.

Q. And do you recall that a letter was addressed to, or that you found that a letter was addressed to the Commission early in 1954 with respect to the removal of certain records from Gilbertville to Ellington, Connecticut?

A. I do recall a letter; I'm not certain of the date.

[fol. 1068] Q. Mr. LaCour, didn't you have that letter with you on your first visit to Ellington, Connecticut, and showed it to Kenneth Nelson?

A. It could be; I don't recall it, but it's possible I may have.

Q. Do you recall that the letter did not, rather, that the letter did notify the Commission that some records were to be changed from Gilbertville, Massachusetts, to Ellington, Connecticut?

A. Yes, Ma'am, I know that.

Q. Do you recall the date of that letter?

A. I'm sorry, I don't; but I did know.

Q. Was it early in 1954?

A. I do know that, I'll answer this way; I do know that Gilbertville has received permission to maintain its records at Ellington; if that's what you're looking for.

Q. Yes.

A. That's right.

Q. Well, was the permission from the Commission in the form of a letter directed to—

A. My information came in the form of a notice that's provided us by the Commission, where a carrier domicile to one territory or district has received permission to maintain its records in another district.

Q. And that notice had been issued prior to your first visit?

[fol. 1069] A. That, I can't recall; I know they now have such authority.

Q. But the letter was at least written prior to your visit?

Mr. Mueller: Mr. Examiner, I submit that she's arguing with the witness; the letter would be the best evidence.

The Witness: I cannot honestly recall the date of the letter.

By Miss Kelley:

Q. Can you produce the letter, Mr. LaCour?

A. No, that would be in the Commission's files in Washington.

[fol. 1071] By Miss Kelley:

Q. Now, on your first visit to Ellington, Connecticut, on November 9, 1954, that you said you checked the payroll records with respect to people working during the same pay period for both Nelson and Gilbertville?

A. Yes, Ma'am.

Q. I mean, your testimony is you actually checked the payroll records of the 2 companies?

A. We did.

Q. Now, can you give us the names of any individuals, their job classifications, and the date on which they worked for L. Nelson & Sons, and that you claim during this same period they worked for the Gilbertville Trucking Company?

A. No, I cannot.

[fol. 1072] Q. Now, can you give us the name, job classification, and date on which you claim any employee worked part of the day for the Nelson Company, and part of the day for the Gilbertville Trucking Company that you found on the payroll records on that day?

A. I think, Miss Kelley, you're confused. As I recall my testimony in that respect, I said that Messrs. Chilberg and Nelson told us that; and that the records so indicated, as I recall my testimony.

Q. Now, if I recall your testimony, you said that Mr. Chilberg was not present on your first visit on November 9 of 1954, didn't you say he was not present?

A. I haven't said so.

Q. Well, on your first visit, you were accompanied by Mr. Shea?

A. That is right.

Q. November 9, 1954?

A. That's right.

Q. Now, do you recollect whether Mr. Charles Chilberg was at Ellington, Connecticut, on that day?

A. No, he was not.

Q. So that your position is that you did not check the payroll records, or that you did check them?

A. No; we did examine them.

Q. But, in your examination, or as a result of the ex-[fol. 1073] amination you could not give me the names of any persons?

A. No, we made comparisons of names appearing on both payrolls, found the same persons on both payrolls.

Q. But, you cannot give me dates or times?

A. No, I cannot.

Q. Or the name of any person?

A. No, I cannot.

Q. Now, how many medical certificates for drivers were presented for you for examination by the Gilbertville Trucking Company?

A. I've forgotten the exact number, but for round figures, 55 or 60.

Q. Now, did you check to learn if drivers whose medical certificates were contained in that list were shown to have worked for other trucking companies than the L. Nelson & Sons, such as Adley, or Associated; or Dunley and Perkins?

A. No, I did not.

[fol. 1076]

By Miss Kelley:

Q. Mr. LaCour, you testified with respect to inspecting a vehicle at Somers, Connecticut, on the morning of November 10, 1954.

A. I did.

Q. Did you actually copy the pros that were on the vehicle, or were the notes from which you testified merely memorandums as to the information on the pros?

A. These notes were made from the information on the pros.

Q. But at this time you cannot say whether you copied all of the information on the pros or not, is that correct?

A. No, I certainly didn't because it's a printed form, and I was not concerned with much of the printed matter on the form.

Q. When did you visit Monson, Mass., to check the location of the trailer testified to be stationed at Monson by Gilbertville?

A. I have visited Monson, Massachusetts, on various and diverse occasions, sometimes in the course of other duties, and other times specifically for the purpose of attempting to locate a terminal owned or operated by Gilbertville Trucking Company.

Q. You do know that there is no terminal owned or operated by Gilbertville at Monson?

A. I was unable to find any building devoted to that purpose.

Q. Well, have you checked for the location of the trailer [fol. 1077] which is stationed at Monson, Mass.?

A. I have, yes.

Q. And when did you attempt to locate that trailer?

A. I have looked for anything, not only trailers, but buildings as well; I have never been able to locate any.

Q. Have you checked since testimony was offered in this hearing as to the point where the trailer has been stationed on the vacant lot?

A. No, I have not.

Q. In your previous visits to Monson, do you recollect whether or not you recognized the vacant lot that was described in this proceeding as the point where the interchange has taken place in Monson?

A. I don't recall that there was any testimony as to the exact location of the semi-trailer.

Q. After the hearing, I believe it was not a street address, but do you recall that after the hearing we made a check as to a street address, and I found, and I believe informed you, that it was Cushman Street in Monson?

A. The last I knew on that subject, Miss Kelley, was that



a check was to be made; the result of the check, I haven't been advised of.

Q. You recall a Monday morning of this week when in the corridor that we were discussing it, and asked about that name, the same name as the baking company around [fol. 1078] here, mentioned, and then it was remembered that it was Cushman Street?

A. I do recall we had some informal discussion; and if my memory serves me correctly, a check was to be made as to the exact location; but as I said before, I haven't been advised as to the result of the check.

Q. Mr. LaCour, have you made a check of the divisions of revenue between southern carriers such as Super Service Motor Freight Lines, Griggs, Mason-Dixon Lines, and other long-haul carriers who interline freight with New England carriers?

A. No, I'd have no occasion to make such a check.

Q. Well, in your checking of the New England carriers in your area who interline with such southern carriers, you do not recall having made a check?

A. No, I do not.

Q. Do you know that it's a matter of common knowledge in the trucking industry that particularly the southern carriers have a flat-rate arrangement with New England carriers for interline, regardless of what area the New England carriers serve?

A. No, I do not.

Exam. Baumgartner: What do I understand that term "flat-rate," you mean a fixed rate?

Miss Kelley: Fixed division.

Exam Baumgartner: Your answer?

The Witness: With that understanding.

[fol. 1079] By Miss Kelley:

Q. Now, have you checked the division arrangement between motor carriers and carriers whose authority issued by the Massachusetts Department of Public Utilities has been registered with the Interstate Commerce Commission?

A. I'm afraid I don't understand the question, Miss Kelley.

Q. Well, do you recognize that in your area, and throughout Massachusetts, there are a number of carriers who hold authority from the Massachusetts Department of Public Utilities which has been registered with the Interstate Commerce Commission to permit those carriers to handle freight in interstate; that is, moving in interstate commerce, but physically within Massachusetts?

A. Yes, I understand that.

Q. Now, have you checked the interline arrangements of such carriers with interstate or multiple-state carriers?

A. Yes.

Q. Isn't it a fact that in numerous instances, such Massachusetts, physically intrastate carriers, all on unregistered certificates, do have fixed—

Exam. Baumgartner: Interline division.

Miss Kelley: Thank you, Mr. Examiner.

The Witness: Fixed with respect to each individual point served by the carrier.

By Miss Kelley:

Q. Didn't you find in a number of such carriers operate on a fixed rate per 100 pounds for the particular area that [fol. 1080] they serve?

For example, in the Worcester area, that they would get so much per hundred pounds for all freight interlined with the multiple-state carriers?

A. Oh yes.

Q. And that's regardless, it covers all areas.

A. Small areas.

Q. Mr. LaCour, with reference to the settlement account between Nelson and Gilbertville, I believe you said that you made that check in your visit in November of 1955 to Ellington, Connecticut.

A. That's correct.

Q. Did you actually check the bookkeeping records of the company?

A. No,—

Q. Well,—

Mr. Mueller: Had you finished your answer, Mr. LaCour?

The Witness: I believe, if I may clarify that answer.

Exam. Baumgartner: The answer you want to explain, you may do so.

The Witness: I didn't check each and every item involving these particular accounts, since that information was prepared at the direction of, I have forgotten whether it was Mr. Chilberg or Mr. Nelson; I believe it was Mr. Nelson.

By Miss Kelley:

Q. Well, do you know from which company's records the [fol. 1081] figures that you gave here were given to you?

A. The Nelson records. Pardon me; the Gilbertville records.

Q. From the Gilbertville records?

A. Yes.

Q. You made no comparison, then, as to the figures on each company's books, or as to whether or not the postings in each company's books were up to date or covered the same period?

A. My understanding at that time was that the figures provided were as of that date, November 8, 1955.

Exam. Baumgartner: You're speaking now about what the records show with respect to obligations due and owing by Gilbertville to Nelson & Sons Company?

The Witness: No, the reverse, Mr. Examiner; due and owing Gilbertville by Nelson. This figure, I believe, is \$39,000 in round figures, is that the one you're referring to?

Miss Kelley: Wait a minute. You had Nelson to Gilbertville.

Exam. Baumgartner: That's right.

By Miss Kelley:

Q. And then this morning, you gave Gilbertville owed Nelson.

A. But this morning I was testifying about vehicle rentals.

Exam. Baumgartner: Yes, well, that's what we're trying to find out now.

The Witness: Are you discussing vehicle rentals, or division of interline charges?

[fol. 1082] By Miss Kelley:

Q. Well, frankly, Mr. LaCour, what I'm trying to find out is what you were referring to in your testimony; and I thought that you were discussing the entire account between the two companies, both interline and other matters.

A. No. If my memory serves me correctly, yesterday I testified that Nelson owed Gilbertville \$39,000, in round figures, on interline settlements; and this morning I testified that Gilbertville owed Nelson \$19,000 in vehicle rentals.

If I didn't so testify, I want to do so now.

Q. And those were the only items that you were testifying to, is that correct?

A. That's correct, nothing else.

Q. And although there may have been other matters for adjustment between the two companies, you didn't cover the complete account between the two companies?

A. Oh, no.

Q. And you got your information from a check that was made by somebody else?

A. That's right.

Q. You did not actually take these figures from the books?

A. I didn't physically make the computations; I examined some of the records to ascertain from whence the figures came, and then the net results were prepared and provided to me by Mr. Nelson.

[fol. 1083] Exam. Baumgartner: Mr. Kenneth Nelson?  
The Witness: Kenneth H. Nelson.

By Miss Kelley:

Q. Now, on your visit to Ellington, Connecticut, on November 8, 1955, isn't it a fact, Mr. LaCour, that you stayed downstairs in a room that's commonly known or called the drivers' room?

A. You mean throughout my entire visit?

Q. Through your visit, weren't you in that room most of the time?

Mr. Mueller: On which day?

By Miss Kelley:

Q. On November 8, 1955?

A. I really don't recall. I can safely say that most of the time was spent on the lower floor; part of it in the drivers' room, part of it in what I recognized to be Mr. Chilberg's office.

Q. Well, let me say that I didn't mean to tie you down in one spot.

Now, on that occasion, you did not go upstairs in the office of the Gilbertville Trucking Company, did you?

A. I don't recall; well, I may have.

Q. Well, if you did go up, will you tell us if changes had been made in the Gilbertville office on the second floor, or during the interim between your first visit of November, 1954, and your second visit in November of 1955?

A. I don't recall any physical changes.

[fol. 1084] Q. Do you recall whether or not you went upstairs to see?

A. I really don't.

Exam. Baumgartner: I think he's already said that.

By Miss Kelley:

Q. Was this the first investigation that you have made of the Gilbertville Trucking Company since March of 1953, which I believe is the date that the stock of the company was purchased from Mr. Vachon?

A. Depends on what you call an investigation.

Q. Well, had you had any, or had you made a terminal check of the Gilbertville Trucking Company during the interim period?

A. I really don't recall; I make hundreds of them; and I can't recall that I did or not.

Q. But, I mean, you did know Mr. Vachon had sold the stock in the Gilbertville Trucking Company to Kenneth Nelson?

A. I had heard it, yes.

Q. Now, Mr. LaCour, you have testified that you participated in a road check at Union, Connecticut, which I be-

lieve extended for a three-day period on May 2, 1956, to the 3rd and 4th?

A. I don't remember the exact dates, but we did have a three-day road check at Union, Connecticut, and May 2, 1956, was one of the days.

Q. Now, do you recall that you participated in the road check of several vehicles of L. Nelson & Sons Company during that road check?

A. I was present at the road check. Just exactly whose [fol. 1085] vehicles I inspected, I haven't the remotest idea at the moment.

Q. Well, I show you an SS 31 Form, which is the report form of the Bureau of Motor Carriers, is that correct?

A. Yes.

Q. And do you recognize where the signature on the bottom after the words "Inspected by," do you recognize that as your signature?

A. I do.

Exam. Baumgartner: Recognize it as what?

Miss Kelley: He recognized the words after "Inspected by" as his signature.

By Miss Kelley:

Q. And, Mr. LaCour, did that cover the inspection of a vehicle of the L. Nelson & Sons Company, being International tractor No. 103, I presume that's a company number, and Brown trailer No. T95, and the driver's name was George Smith?

A. It does.

Q. Now, is there any criticism of the lading carried on that vehicle by you, Mr. LaCour, as shown by the copy of the SS 31 Form which I have shown you?

A. No, there is not.

Exam. Baumgartner: Miss Kelley, are you going to ask the same question about each one of those?

Miss Kelley: There's only 4, I think.

[fol. 1086] Exam. Baumgartner: I thought maybe you could lump them all and ask him one question.

Miss Kelley: All right.



By Miss Kelley:

Q. Now, there are, I believe, 3 other SS 31 Forms that have your signature on them, Mr. LaCour, showing inspection of vehicles of the L. Nelson & Sons Company on May 2, 1956; would you look at each of these, the SS 31 reports, and tell me if there was any criticism of the lading carried on the vehicles at the time of your inspection?

A. What is the Company number of the tractor in this one?

Q. I can't read it; looks like 21, or 131.

A. There's no criticism of the lading in connection with this particular SS 31.

Exam. Baumgartner: How about any of the rest of them; she's asking you a lump question there so as to speed things up.

By Miss Kelley:

Q. On one of these inspection reports is shown as being, the date is 5/4/56.

A. There's no criticism of the lading on this particular SS Form 31.

Q. That was a separate truck of the L. Nelson Company which you inspected.

And there is a third SS 31 report for 5/4/56 in which is shown you inspected the vehicle.

A. Matches the same with respect to this.

Q. There's no criticism with respect to the lading carried [fol. 1087] on the vehicle?

A. None.

Q. Now, Mr. LaCour, on May 2, 1956, you have testified as to stopping one vehicle of the Gilbertville Trucking Company driven by driver Botti.

Did you inspect another vehicle of the Gilbertville Trucking Company operated by driver Pierce on that day?

A. Yes.

Q. And there was a vehicle of Gilbertville Trucking Company inspected at 9:05 a.m. on May 2, '56, and your SS 31 report shows no criticism of the lading carried on that vehicle, is that right?

A. It does not.

Exam. Baumgartner: You mean it does not show—

The Witness: It does not show on the SS 31.

Exam. Baumgartner: —that there was any criticism?

The Witness: That there was any criticism of the lading at that time.

By Miss Kelley:

Q. Now, on your SS 31 report in connection with the vehicle operated by driver Botti, which is shown on Exhibit 34 for identification, does the Exhibit show that the driver's log was in order?

A. It does.

Q. And you took a copy of the driver's log, didn't you, Mr. LaCour?

[fol. 1088] A. Driver Botti made a copy for me and handed it to me.

Q. And do you recollect that that log showed that driver Botti had at least been off duty from Midnight on May 2 to 8:00 a.m. on May 2?

A. I don't recall; I don't have it before me.

If it will help, Miss Kelley, there was no criticism of the driver's log.

Q. I wanted to ask a few more questions on it, if you'll bear with me just a moment.

Do you recognize that as a copy of driver Botti's driver's log which he gave to you on that occasion?

A. I believe, yes, I do; it's a copy.

Q. Now, does that show that driver Botti had been off duty from midnight to 8:00 a.m.?

A. Yes, it does.

Q. And that he reported on duty, but was not driving from 8:00 a.m. to approximately 9:30, or is that definitely 9:30? I have difficulty reading these logs.

A. It's approximately 9:30.

Q. And then it shows he was driving from 9:30 to 10:00?

A. That's correct.

Q. So that he had been driving approximately a half-hour; does the 10:00 o'clock signify the time that he was stopped for the road check at Union, Connecticut?

A. Not necessarily.

[fol. 1089] Q. Did you hear the testimony of Mr. Shea that a number of people had participated in the road check?

A. I did.

Q. And the trucks were stopped various periods of time, and that all trucks coming down the road were stopped?

A. That's correct.

Q. So that you did have a long line of trucks stopped in the road on that location at various times during the day?

A. We didn't stop any trucks.

Q. But there were a long line of trucks stopped on that particular day for inspection; as I understand it, the police pulled the trucks into line, but all trucks coming along the road were held to be inspected, is that correct?

A. They were detoured into a large lot that's adjacent to the weighing station; they were not on the public way.

Q. Now, driver Botti, his vehicle was inspected at 11:00 a.m., is that correct?

A. That's correct. That's approximately eleven; that's not intended to be the exact moment at which the inspection occurred.

Q. Well, it was approximately at 11:00 a.m.

A. It may have been 10:30, 11:00, or 11:15.

Q. Now, you inspected his vehicle; and I believe you already testified that you found nothing wrong with the vehicle, that it was completely in order.

[fol. 1090] A. Yes, I found no defects on the vehicle whatsoever.

Q. Now, after stopping driver Botti, what did you do?

A. I asked for the shipping papers of the company, the lading.

Q. I'm sorry, I didn't mean that.

I realized that you did that, and I think it's clear on the record; but did you call them back to Ellington, Connecticut, or have someone call on your behalf?

A. No, I did not.

Q. On that morning, do you recall that someone made a call to Ellington, Connecticut, and advised that vehicles were being held, and wanted someone from Ellington, Connecticut, to come to Union, Connecticut?

A. I was informed that such a call was placed.

Q. Do you know who made the call?

A. I do not.

Q. Did you learn on that day that Mr. Chilberg was out of town, New York, or some other place?

A. The information I received indicated that neither Mr. Chilberg or Mr. Nelson was available, but that the day foreman would appear.

Q. And the day foreman did appear?

A. Someone did appear, that's correct.

Q. And do you recall what time he appeared?

A. My best recollection is sometime after noontime.

[fol. 1091] Mr. Mueller: Mr. Examiner, I apprehend that Miss Kelley is not getting into the realm of her motion.

Miss Kelley: No, sir, I am not; I'm saving that until later.

Exam. Baumgartner: Just a moment, Miss Kelley; I don't know—

Miss Kelley: I'll be frank, what I want to know, Mr. Examiner, is how long these trucks were held on that road.

Exam. Baumgartner: Why don't you ask the question; put it simply and straight.

By Miss Kelley:

Q. When was Mr. Botti's truck released?

A. I haven't the slightest idea; I had nobody retaining them or detaining them at the place.

Q. But a man did appear from Nelson's office; do you recall the name of the gentleman?

A. Unfortunately, I don't; my best recollection of him was that he was quite a sizable man; what I would determine a big man.

Q. Do you recall that he got there after you returned from lunch on that day?

A. It could well be, I don't know.

Q. Did you direct that freight on Mr. Botti's vehicle be unloaded?

A. Oh, no, no; we have no jurisdiction over that; we cannot order anybody to do any such thing.

[fol. 1092] Q. In your investigation of this matter, did you learn that definite instructions had been given by the

officials of L. Nelson or Gilbertville with reference to not transporting freight of each company in the same vehicle?

A. No; neither of the representatives of the company appeared that day.

Q. Mr. Kerr, or the day foreman, as you call him, did appear, didn't he?

A. Yes.

Q. Do you recall his statement that he had been away from the terminal, and that it was definitely a boner on somebody's part, contrary to his instructions, and instructions of the officials of the company?

A. I don't recall any such statement, Miss Kelley.

Q. Now, on the Botti vehicle, you found wool, is that correct?

A. That's correct.

. . . . .

[fol. 1098] By Miss Kelley:

Q. Since May 2 of 1956, have you inspected other vehicles of the L. Nelson & Sons Company in a road check?

A. Could be.

Q. Do you recall any?

A. Not particularly, no.

Q. And prior to May 2, 1956, do you recall having checked vehicles of L. Nelson & Sons Company in a road check?

A. I might have; I don't know.

[fol. 1099] Q. And now, with respect to the Gilbertville Trucking Company?

A. Same answers.

Q. Did you participate in the 2 inspections which Mr. Shea had testified to?

A. Not in the inspection of the vehicle itself.

Q. Pardon me?

A. Not with respect to the inspection of the vehicle itself.

Q. Well, as to the fishline and the cotton piece goods that were criticized, did you participate at all with respect to those 2 small shipments?

A. May I see the exhibit?

Mr. Mueller: Would you give the Reporter the Exhibit number?

Miss Kelley: Referring to Exhibit 30 and Exhibit 32, are 2 cartons, cotton piece goods, 158 pounds.

The Witness: Your question was what?

By Miss Kelley:

Q. I asked you if you are familiar at all with these, let me follow it up and say, do you know that they were removed from the respective trucks at Union, Connecticut?

A. I haven't the slightest idea.

Q. Now, Mr. LaCour, do you recall, in your visits to Ellington, Connecticut, in November of 1954 that you were requested to make suggestions as to any corrections needed, [fol. 1100] or changes which you had felt were advisable in the operation of the Gilbertville Trucking Company?

Mr. Mueller: What was the date, Miss Kelley?

Exam. Baumgartner: November, '54.

Miss Kelley: November, '54.

The Witness: Specifically what suggestions, Miss Kelley?

By Miss Kelley:

Q. Well, my understanding is that you were asked a general question if you would make suggestions as to any corrections or suggestions you had for changes in the operations of the Gilbertville Trucking Company.

A. I don't recall; it would well have been.

Q. Do you recall Kenneth Nelson asking you to give him suggestions?

I understand that Kenneth Nelson asked you if you would give him suggestions for anything that you found or thought that he should change in connection with his operations.

A. I don't recall, no.

Q. Now, hasn't it been the practice of the district supervisors to notify carriers after visits with their terminals, and suggesting any change or criticism so that the carriers are more or less notified?

A. Only when conducting what we call compliance surveys, not when you're conducting an investigation.

Exam. Baumgartner: Not when you're conducting what?

The Witness: An investigation.



[fol. 1101] By Miss Kelley:

Q. Well, if a complaint is made by another motor carrier, and you make an investigation as a result of that, what do you characterize that type of investigation as?

A. As an investigation.

Q. Is that in the same category that you put this investigation?

A. Yes.

Q. Well, on a number of occasions, Mr. LaCour, I have received copies of letters which have been sent by Commission's representatives, district supervisors, after a complaint made by another motor carrier, and—

Mr. Mueller: Mr. Examiner,—

By Miss Kelley:

Q. Is it your testimony—

Mr. Mueller: May I enter an objection.

Exam. Baumgartner: Wait a minute. Let me get the question, please.

By Miss Kelley:

Q. Well, are you familiar with that practice of the Commission in notifying carriers?

A. Are you referring to what are commonly referred as warning letters?

Q. I consider them as warning letters; whether you folks do or not, I don't know.

A. Warning letters are usually issued under certain circumstances, or written under certain circumstances.

Q. And isn't that often after a complaint of one carrier to [fol. 1102] another carrier's operation?

A. It could be; I don't know what the practice is in any other office other than my own.

Q. But did you at any time write a letter to Mr. Kenneth Nelson of Gilbertville Trucking Company recommending changes, or advising them that in your opinion any of their practices or policies were not correct?

A. No, because it was clearly understood at the time the investigation was initiated.

Q. No such warning or notice?

A. No, the purpose of that, our purpose was given to Mr. Nelson at the time of the investigation.

Q. Was understood as what?

A. As being an investigation.

Q. In other words, he was told it was an investigation?

A. That's right.

Q. Was he given any warning when you went into his office that anything that he said might be used against him in an investigation or complaint proceeding?

A. We told him the purpose of our visit, that we were there in an effort to ascertain whether common control had been effectuated of the Gilbertville Trucking Company by L. Nelson, it was clearly understood.

Q. When did you say you—

A. At the outset of the investigation.

[fol. 1103] Q. Do you have any memorandum to show exactly when you said that?

A. No.

Q. And is it your position two years later that you used those words?

A. Not exactly those words, no.

Q. Now, other than your visit to the Gilbertville terminal on Monday morning of this week, had you made an inspection of the Gilbertville terminal of the Gilbertville Trucking Company?

A. On what Monday morning? Are you referring to November 9, 1954?

Q. No, you said that on Monday morning of this week, September 24, 1956, you went to the Gilbertville Trucking Company terminal.

A. This Monday morning?

Q. Yes.

A. I didn't testify that I went to the terminal; I said I ascertained the location of the terminal.

Q. But it is your testimony that you did not go to the terminal?

A. I did not physically enter the premises, that's correct.

Q. Now, had you, prior to that time, visited the terminal in Gilbertville, Mass.?

A. No.

Q. Now, am I correct that your investigation for this [fol. 1104] proceeding consisted of 2 visits on consecutive days in November, 1954; and accompanied with Mr. Shea to Ellington, Connecticut, and one visit alone to Ellington, Connecticut, on November 8, 1955?

A. May I have the question again, please?

Exam. Baumgartner: Read the question, Reporter.

(Question read.)

The Witness: I don't know what you mean by my investigation. If you want to know whether I visited the terminal on any days other than these,—

By Miss Kelley:

Q. Yes, that's what I want.

A. —I'll say I did not. That doesn't indicate that my investigation took place only during those 3 days, or any other period of time.

Q. But anytime that you talked to any of these parties, or were in the terminals of the Gilbertville Trucking Company, or L. Nelson & Sons, was only on these days?

A. Oh, no.

Q. Pardon me?

A. Again you said that I talked with the parties; I have talked with them on the telephone frequently in connection with other matters.

Q. In connection with other matters?

A. That's right.

Q. But, see, I'm limited to this investigation; I mean, [fol. 1105] these were the occasions that you went to the office; and, then, of course, you did become involved in the road check.

A. That's correct.

Q. In your investigation on Monday morning of this week, as to the town lines of Hardwick, Mass., did you find that those town lines are clearly marked so that they might be followed by you or by someone trying to determine where the premises were, on one side or the other, of the town line?

Exam. Baumgartner: Clearly marked?

Miss Kelley: At Hardwick, Massachusetts; between Hardwick and Ware.

Exam. Baumgartner: Well, are there any marks anyplace showing boundaries of anything?

Miss Kelley: That's what I'm trying to find out.

The Witness: There are signs by the side of the road indicating that you are passing from one town into the other, as in the case throughout most of Massachusetts.

Exam. Baumgartner: Road signs?

The Witness: Yes, sir; as you approach it on one side, sometimes it will say, "You are now entering such-and-such a place," or "You are leaving such a place," or in other instances, it will be merely the name of the town in which you are then, and the name of the town which you are passing through on the other side.

Exam. Baumgartner: Are those highway markers always posted at the legal corporate limits?

[fol. 1106] The Witness: I wouldn't know; I presume they are.

Miss Kelley: I have just a few other notes to check, Mr. Examiner, would you want to stop for lunch at this time and I could check these?

Exam. Baumgartner: Off the record.

(Discussion off the record.)

Exam. Baumgartner: On the record.

By Miss Kelley:

Q. With reference to the insurance of Nelson and Gilbertville, your testimony was that that was information you secured from whom?

A. Kenneth Nelson and Mr. Chilberg; this was on November 8, 1955, as I recall it.

Q. Now, the Commission has records of insurance and insurance certificates filed with the Commission by motor carriers, is that true?

A. Oh, yes.

Q. Did you check the records of the Commission with respect to the companies' filing insurance certificates for Gilbertville?

A. No, sir.

Exam. Baumgartner: For what time?

Miss Kelley: Well, for 1954, '55, and the present time. See, these certificates are on file with the Commission during that period.

The Witness: Our primary concern is whether or not [fol. 1107] they are insured, not so much which company they are insured by.

By Miss Kelley:

Q. Did you ask for any insurance policy so that you compared the names yourself?

A. I don't recall, Miss Kelley.

Q. Did you make a report similar to the type of report that Mr. Shea used to refresh his recollection as a result of your visit to, visit of November 8, 1955?

A. Do I make a report?

Q. Do you make reports?

A. Oh, yes.

Q. Did you use the report made on November 8, 1955, to refresh your recollection in connection with testimony that you presented here?

A. I did.

Q. And in your report, Mr. LaCour, did you put down, quoting the exact conversations, or did you summarize those conversations?

A. I summarized them.

Q. And is that also true with respect to your report for the first visit in November, 1954?

A. Yes, we make notes.

Q. So that your notes and memorandum represent your impressions of what the conversation was?

A. Oh, no, not impressions; actually what the conversation was in substance.

[fol. 1108] Q. In substance?

A. We don't intend to read their minds.

Q. You don't put the question and answer down exact words were used, do you?

A. No; very often a person will make a statement extemporaneously, which is valuable to us.

Q. Do you recall on your first visit to Ellington, Connecticut, that there was some criticism and a little unpleasantness because of complaints of women employees as to ungentlemanly conduct of Mr. Shea that was called to both your attention and to Mr. Shea's attention?

A. No. You'd better let me have that one over again.

Q. Pardon me?

A. I don't understand this.

Q. I mean, was there criticism of the manner in which Mr. Shea interrogated employees, particularly women employees, of the L. Nelson & Sons Company that resulted in a little unpleasantness on your first visit to Ellington, Connecticut?

A. Was there criticism?

Q. Yes.

A. By whom?

Q. Well, as I understand it, some of the women employees were involved in it because of what they contended was ungentlemanly and intimidating conduct, and that you and, I believe, Mr. Kenneth Nelson were involved in some difficulty [fol. 1109] culty in questions with respect to the women.

A. I received no criticism from anyone as to Mr. Shea's conduct with respect to women.

Q. I'm not inferring, please; please don't take it that I am inferring that it was, that the impropriety was that I believe that they felt Mr. Shea was attempting to intimidate them.

Mr. Mueller: Mr. Examiner, I think I should enter, interpose an objection to this type of questioning here. We have insinuations and innuendoes indicating misconduct, or improper conduct, on the part of Commission's employees.

If there is to be any evidence of that sort of thing, I suggest that Miss Kelley bring it forward herself; and she's been making statements here, she's not been asking questions.

Exam. Baumgartner: You answered the last question, didn't you?

The Witness: I don't recall that I answered the question.

Exam. Baumgartner: There is no question pending, is there?



Miss Kelley: Well, I think there is. Did you get an answer to that question?

The Witness: I don't believe I said I didn't recollect. I am very clear as to what I am about to say, and if I interpret your question correctly as to whether such criticism was received by me, my answer is no.

[fol. 1110] By Miss Kelley:

Q. Well, may I say, do you recall that you were complimented on the gentlemanly manner in which you conducted your investigation?

A. But we are now, as I understand it, referring to some complaints, allegedly filed by some female employee of either Gilbertville or Nelson.

Q. My understanding is that the, that it resulted from complaints as to the tone and manner of questions with respect to the employment and the duties of women employees of L. Nelson & Sons Company.

A. This is the first I have heard of any such criticism.

Mr. Mueller: May I have that answer?

The Witness: This is the first I have heard of any such criticism.

By Miss Kelley:

Q. Do you recall that you were complimented on the gentlemanly manner in which you conducted your investigation?

A. I well might have been; I don't recall that either.

[fol. 1111] Redirect examination.

[fol. 1114] By Mr. Mueller:

Q. And what is the town immediately to the south of Palmer?

A. Monson.

Q. And is there another town to the east, town or towns?

A. Brimfield and Warren.

Q. Is there a town to the west that you can identify from the map, west of Palmer, would it be Wilbraham?

A. It might possibly be Wilbraham.

Q. Or Ludlow?

A. There is a portion of Monson which is west of Palmer.

Miss Kelley: But doesn't show on the map.

The Witness: It doesn't show on this map.

By Mr. Mueller:

Q. Now, in answer to Miss Kelley, you stated that on the occasion of your first visit to the Ellington terminal in 1954, you told Kenneth Nelson of the purpose of your visit?

A. Yes, we did.

Q. Can you tell us just where on the premises that conversation occurred?

A. On the first floor.

Q. Near the entrance?

A. Near the entrance, and in the vicinity of the teletype machine at which he was seated when we entered.

Mr. Mueller: I think that's all, Mr. Examiner.

[fol. 1117] EDWARD D. SHUA recalled, and testified as follows:

Exam. Baumgartner: Proceed, Mr. Mueller.

Miss Kelley, this, of course, is understood subject to [fol. 1118] your objection.

Miss Kelley: Yes, sir; of course, I'm going to object.

Exam. Baumgartner: Based on hearsay.

Miss Kelley: Yes, sir, and that it does not represent any exception to the hearsay rule in my opinion.

Direct examination.

By Mr. Mueller:

Q. Did you question Mr. Kashady on the occasion of your visit of October 22, 1954, concerning leasing of vehicles between Nelson and Gilbertville?

Miss Kelley: Mr. Examiner, don't you think we ought to make it clear on the record that Mr. Shea has been recalled, and as to identifying him as the same?

Exam. Baumgartner: That's on the record already.

Miss Kelley: I'm sorry; I didn't hear it said.

Mr. Mueller: May I withdraw that question, Mr. Examiner?

Exam. Baumgartner: Yes, you may; I thought it was a little bit indefinite.

By Mr. Mueller:

Q. Did you question Mr. Kashady as to his connection with the corporation known as the Gilbertville Trucking Company?

A. I did.

Exam. Baumgartner: In what conversation, and where?

The Witness: At the Ware, Mass., airport on October 22, 1954.

By Mr. Mueller:

Q. And what did he say on that subject in response to [fol. 1119] your questions?

A. He told me that he was a vice-president of the Gilbertville Trucking Company, Inc., that Kenneth Nelson was president and treasurer, that he did not know who the clerk of the corporation was, or where the records of the corporation were kept; he told me that Mr. Kenneth Nelson had given him 24 shares of stock of the Gilbertville Trucking Company, Inc., that Kenneth Nelson had showed him the stock certificate, but did not permit him to retain it.

Q. Whether or not he paid anything for the stock?

A. He did not so inform me.

Exam. Baumgartner: He did not what?

The Witness: So inform me.

By Mr. Mueller:

Q. Did you question him about his background as to what employment he had prior to being associated with Gilbertville?

A. I did.

[fol. 1120]

By Mr. Mueller:

Q. Did he say whether or not he had been previously employed by Nelson?

A. He did.

Q. And did he say for how long?

A. He worked for L. Nelson & Sons for 15 years.

Q. Did he say in what capacity?

A. He said he was assistant terminal manager in Boston, Mass.

Q. Did you ask him to explain the leasing practices between the Nelson Company and the Gilbertville Company?

A. I did.

[fol. 1121] A. Mr. Kashady explained the leasing in this way: That when either of the companies were handling a shipment outside their own operating authorities, they leased vehicles from one to the other; and he gave an example of a shipment moving from New York to Pittsfield, Mass., would come into Rockville, Connecticut, on L. Nelson paper, and from Rockville, Connecticut, to Pittsfield, Mass., it would move forward on Gilbertville paper.

Exam. Baumgartner: What do you mean by paper?

The Witness: Leases.

By Mr. Mueller:

Q. Do you also refer to bills of lading?

A. Bills of lading, or shipping papers.

[fol. 1122] Q. And what about the use of the same vehicle for the movement of that shipment?

A. I asked Mr. Kashady of an instance such as he used to describe, if the same driver—

Q. I asked you about vehicles, Mr. Shea.

Miss Kelley: I object.

The Witness: Was the question related to vehicle?

By Mr. Mueller:

Q. Whether the same vehicle would be used beyond Rockville?

A. Yes, he said the same vehicle—

Exam. Baumgartner: Just a moment. You may answer, subject to the objection.

Go ahead.

The Witness: He said, yes, usually the same vehicle would go through on truckload.

By Mr. Mueller:

Q. Now, did you inquire him to the use of Nelson drivers in subsequent instances?

A. He said that in response to the question that the same driver would remain with the vehicle, and he said, "usually, yes."

Q. Did you inquire from him as to repairs of Gilbertville vehicles, and where they were made?

Miss Kelley: I object.

Exam. Baumgartner: You may answer.

The Witness: Mr. Kashady told me that all repairs to [fol. 1123] the Gilbertville Trucking Company vehicles were made at the shogs of L. Nelson & Sons Company in Rockville, Connecticut.

Mr. Mueller: You may inquire.

Exam. Baumgartner: Miss Kelley?

Cross examination.

By Miss Kelley:

Q. Now, at what point did you find Mr. Kashady?

Exam. Baumgartner: With respect to what?

Miss Kelley: Well, Mr. Shea said that he talked to Mr. Kashady; I wanted to know at what point he talked to him, and where he found him.

The Witness: I met him in the yard of the Ware airport as I drove in. I saw this man, and I told him who I was, and asked him who he was.

By Miss Kelley:

Q. And did you learn what his activities, or what his position was as far as the type of work that he did for the Gilbertville Trucking Company?

A. He told me that he was terminal manager at Gilbertville, but that he also drove tractor-trailer around, sometimes picking up shipments.

Q. As terminal manager at Gilbertville, Massachusetts?

A. He was terminal manager for the Gilbertville Trucking Company.

Exam. Baumgartner: Did you say where?

The Witness: Right where he was, at Ware, Mass., at the [fol. 1124] Ware Airport.

Exam. Baumgartner: You ought to get those things in the record.

The Witness: Yes, sir.

By Miss Kelley:

Q. And did you inquire of him what authority he had to speak with respect to the operations or on the matters that you questioned him on? What authority he had to speak for the Gilbertville Trucking Company?

Mr. Mueller: I object to the question, Mr. Examiner; it's repetition, and it appears that the man is vice-president and terminal manager.

Exam. Baumgartner: Just a moment. Mr. Reporter, will you please read the question; I didn't catch the first part of it.

.(Question read)

Exam. Baumgartner: You may answer the question, Mr. Shea.

The Witness: He told me that he was vice-president and general manager of the company, and that he was in charge of the terminal.



By Miss Kelley:

Q. Did he tell you he was general manager of the Gilbertville terminal, or terminal manager of the Gilbertville terminal?

A. He said terminal manager instead of general manager, I meant to say terminal manager.

[fol. 1125] Q. Mr. Shea, don't you know that vice-presidents are normally given just a title, that that's a mere title?

Exam. Baumgartner: Miss Kelley, that doesn't make any difference what this witness knows about the functions or lack of functions of a vice-president.

I think that's an argumentative question.

By Miss Kelley:

Q. Did you inquire of Mr. Kashady of what period he claimed to have been an assistant terminal manager in Boston for L. Nelson?

A. Yes; since Kenneth Nelson offered him the job; but he didn't specify the date.

Q. I'm sorry, I don't follow you on that.

Exam. Baumgartner: Maybe he didn't understand the question.

Did you understand the question?

The Witness: She wanted to know how long he had been terminal manager at Ware.

Exam. Baumgartner: No, that wasn't the question.

She asked you whether you had inquired of him.

By Miss Kelley:

Q. I mean, your statement that he had been an assistant terminal manager at Boston; did I understand you correctly?

A. For L. Nelson for 15 years.

Q. Did you inquire, during the 15-year period, where Mr. Kashady resided?

[fol. 1126] A. I did not.

Q. Did you know that he had resided in Connecticut prior to taking over the, prior to becoming the terminal manager at Gilbertville, Mass.?

A. I did not.

Q. Now, Mr. Kashady informed you, I believe you stated in your previous testimony, that the accounting records and bookkeeping records of L. Nelson were kept at Ellington, Connecticut?

A. He stated all the billing and bookkeeping records of the Gilbertville Trucking Company were kept at Rockville, Connecticut.

[fol. 1127] Mr. Mueller: Mr. Examiner, I now offer Exhibit Nos. 27 through 35, for the record, offer them in evidence.

[fol. 1130] Miss Kelley: I'll permit this Exhibit 28 to be admitted in evidence together with Exhibit 27, 29 through 35.

The testimony, as I recall it, is that this is a document that was taken and found in the files of the company, and apparently a live file so far as we know; and for that reason, I think it does have some relevancy.

There may be some question as to the weight to be accorded it, whether it be little, or much; but these Exhibits, 27 through 35 for identification will be admitted in evidence.

(Commission's Exhibits Nos. 27 through 35, Witnesses Shea and LaCour, were received in evidence)

[fol. 1143] Exam. Baumgartner: \* \* \* Now, who is to initiate this stipulation?

[fol. 1144] STIPULATION OF COUNSEL

Mr. Mueller: Mr. Examiner, after observing maps and consulting with the engineer produced by Miss Kelley, it is stipulated that the distance from the nearest distance from the corporate limits of the town of Palmer, Massachusetts, to Route 83 in Massachusetts and Connecticut is 8.95 miles.

Exam. Baumgartner: That's Massachusetts and Connecticut Highway No: 83?

Mr. Mueller: Massachusetts and Connecticut highway.

Exam. Baumgartner: Do you so stipulate?

Miss Kelley: Yes, sir, I do; and that a vehicle operating over Route 83 is travelling within a ten-mile radius, or gateway area, of Palmer under Gilbertville's certificate.

Mr. Mueller: That would be on handling Connecticut and Rhode Island traffic.

Miss Kelley: Going through that gateway, yes.

Mr. Mueller: It is so agreed.

I believe we have concluded our stipulation.

[fol. 1175] KENNETH H. NELSON previously sworn, was re-examined and testified as follows:

Direct examination.

By Miss Kelley:

Q. Mr. Nelson, you were not here today earlier in testimony, and I want to ask you if when Mr. LaCour came to your office in November of 1954, had you seen Mr. LaCour before that time?

A. No, I had never seen him before.

Q. Had you seen Mr. Shea before?

[fol. 1176] A. No, I had not.

Q. Did either one of them identify themselves?

A. Yes; Mr. Shea identified himself, and Mr. LaCour did not.

Q. Well, in other words, how did they identify themselves?

A. As I recollect, they came into the office, Mr. LaCour was first, and he said that his name was Mr. LaCour, and I had heard his name before, and knew of him; and Mr. Shea pulled out his wallet and identification badge, and so on, and let me peruse his identification papers.

Q. So that having heard of Mr. LaCour before—

A. I had heard of him before.

Q. But you had not met him before that day.

A. No, I had never seen him before.

Q. Now, did Mr. LaCour advise you of the purpose of the investigation?

A. No, he did not.

Q. The first date, I believe, was November 9, 1954; and now can you recollect on either November 9, 1954, or November 10, when he and Mr. Shea returned the following day, did they at any time advise you of the nature of their investigation?

A. No, they did not; and I was particularly interested in knowing what the nature of their visit was.

Q. Now, Mr. LaCour testified further that on a date in November of 1955 he called again at the office at Ellington, [fol. 1177] Connecticut, and talked to you, do you recall that visit?

A. Yes, I do.

Q. At that time, did you say anything to Mr. LaCour about thwarting an investigation of the Interstate Commerce Commission?

A. Absolutely not.

Q. Did you co-operate in furnishing information that was requested that was available?

A. I told both Mr. LaCour and Mr. Shea that any records that they wanted to see was available to them just upon asking; there wasn't a thing in the office that wasn't available to them if they would just simply ask me for it.

[fol. 1178]

#### APPLICANT'S EXHIBIT #22

Agreement made this second day of March, 1953 by and between WILFRED J. VACHON of Hardwick Road, Gilbertville, Massachusetts, party of the first part and KENNETH NELSON of 32 Earl Street, Manchester, Connecticut, party of the second part. The party of the first part agrees to sell and the party of the second part to purchase one hundred shares of stock in the GILBERTVILLE TRUCKING COMPANY, INC., a Massachusetts corporation with its regular and usual place of business in Gilbertville, Massachusetts. Said one hundred shares of stock

being the total of all capital stock issued and outstanding in the Gilbertville Trucking Company, Inc.

The terms and conditions of the said sale are as follows:

1. The party of the first part agrees to transfer all the shares of the capital stock standing in his name and agrees on behalf of his wife, Opalma Vachon to cause her to transfer the shares of the corporation standing in her name.

2. The seller warrants that the corporation is the owner of certain Interstate Commerce Commission operating authorities as exhibited by I.C.C. docket numbers, MC87431 and MC87431 sub 7 and Massachusetts Department of Public Utilities rights. The seller further warrants that the Massachusetts Department of Public Utilities rights are for general commodities and are unrestricted and cover the entire State of Massachusetts.

3. The seller further agrees that the rolling stock of the corporation consists of:

1—1948 Autocar T70 TS Tractor

1—1945 L.F.T. Mack Tractor

1—1945 Brockway XW Tractor

1—1946 G.M.C. Truck with semi-van body straight Tractor

1—1941 Highway semi Trailer full van

1—1940 Highway semi Trailer van half roof

1—1940 Freuhauf Open rack Trailer

1—1939 G.M.C. Trailer open rack

[fol. 1179] The purchase price of the said capital stock shall be arrived at as follows:

A base price of \$35,000.00 to be increased by the following assets as shown on the audit report of the Gilbertville Trucking Company, Inc. as at February 28, 1953; cash, good accounts receivable due from customers and prepaid items and to be reduced by the detailed list of liabilities as shown on the said audit report as at February 28, 1953.

In consideration and on account of the above purchase price, \$10,000.00 is hereby paid and the receipt thereof is

hereby acknowledged, the balance of the purchase price is to be paid as follows:

A promissory note made payable to Wilfred J. Vachon in the amount of \$10,000.00 with interest at 4% per annum on any unpaid balance, payable jointly and severally, by Kenneth Nelson and Oscar Herbert Chilberg, first payment to commence August 1, 1953 and every three months thereafter in equal payments of \$500.00 with interest until paid in full. This note is to be executed on May 1, 1953. Said note is to contain a clause reserving the right of anticipation of payment by the makers. In the event of default of two consecutive payments, the unpaid balance shall become due and payable at once. Any reasonable attorney's fees and costs of collection shall be paid by the makers and stated in said note. As security for the payment of the said note, the purchasers shall deposit the stock of the corporation with Attorneys Samuel Zandan and Arthur Paroshinsky who shall both hold in escrow until full payment of the note, at which time they shall turn the said stock over to the purchasers. In the event of default, as mentioned within the note, Attorneys Samuel Zandan and Arthur Paroshinsky shall convey or return the stock to Wilfred J. Vachon.

[fol. 1180] . The balance of the purchase price shall be paid to Attorneys Samuel Zandan and Arthur Paroshinsky to be held in escrow for the payment of the liabilities as shown on the audit report as of February 28, 1953 or any other indebtedness of the corporation which shall come to the attention of Attorneys Samuel Zandan and Arthur Paroshinsky, which indebtedness was in existence on or prior to February 28, 1953. On July 1, 1953, the balance of the money remaining in the hands of Attorneys Samuel Zandan and Arthur Paroshinsky shall be turned over to Wilfred J. Vachon with a complete accounting of all funds held by them.

The seller will further execute and deliver to the purchaser an agreement indemnifying the purchasers against any liabilities other than what appears on the audit report as of February 28, 1953 and will defend any action brought by anyone against the corporation and will save the pur-



chasers harmless against any indebtedness or claims occurring prior to March 1, 1953.

The seller further agrees that he will not, for a period of five years, either directly or indirectly, engage in the business of a common carrier for any of the territory which is covered in the I.C.C. rights or the Massachusetts Department of Public Utilities rights which are sold. However, he shall be allowed to continue the business of renting or leasing of trucks anywhere outside of a radius of thirty miles from Palmer, in the State of Massachusetts.

The purchasers agree to see that the Gilbertville Trucking Company, Inc. observes all Federal, State and Municipal regulations pertaining to the conduct of the business, more particularly regulations set forth by the I.C.C. and Department of Public Utilities of the Commonwealth of Massachusetts.

[fol. 1181] In the event of any violation of any regulations, then the purchasers shall be given a reasonable time to advise the corporation of said violations and to order that the corporation correct said violations.

It is agreed between the parties that, if for any reason, the purchaser shall not deposit the balance of money due in escrow to Attorneys Samuel Zandan and Arthur Paroshinsky on or before May 1, 1953 and shall not sign the note described above, then and in that event this agreement shall be null and void and the seller shall retain the sum of \$5,000.00 as liquidated damages and shall return the sum of \$5,000.00 to the purchaser and the purchaser shall be obligated to return all and any of the assets which are conveyed above, including certificates of stock now held in escrow.

WITNESS our hands and seals this third day of March, 1953.

(s) ARTHUR PAROSHINSKY

(s) WILFRED J. VACHON

(s) SAMUEL ZANDAN

(s) KENNETH NELSON